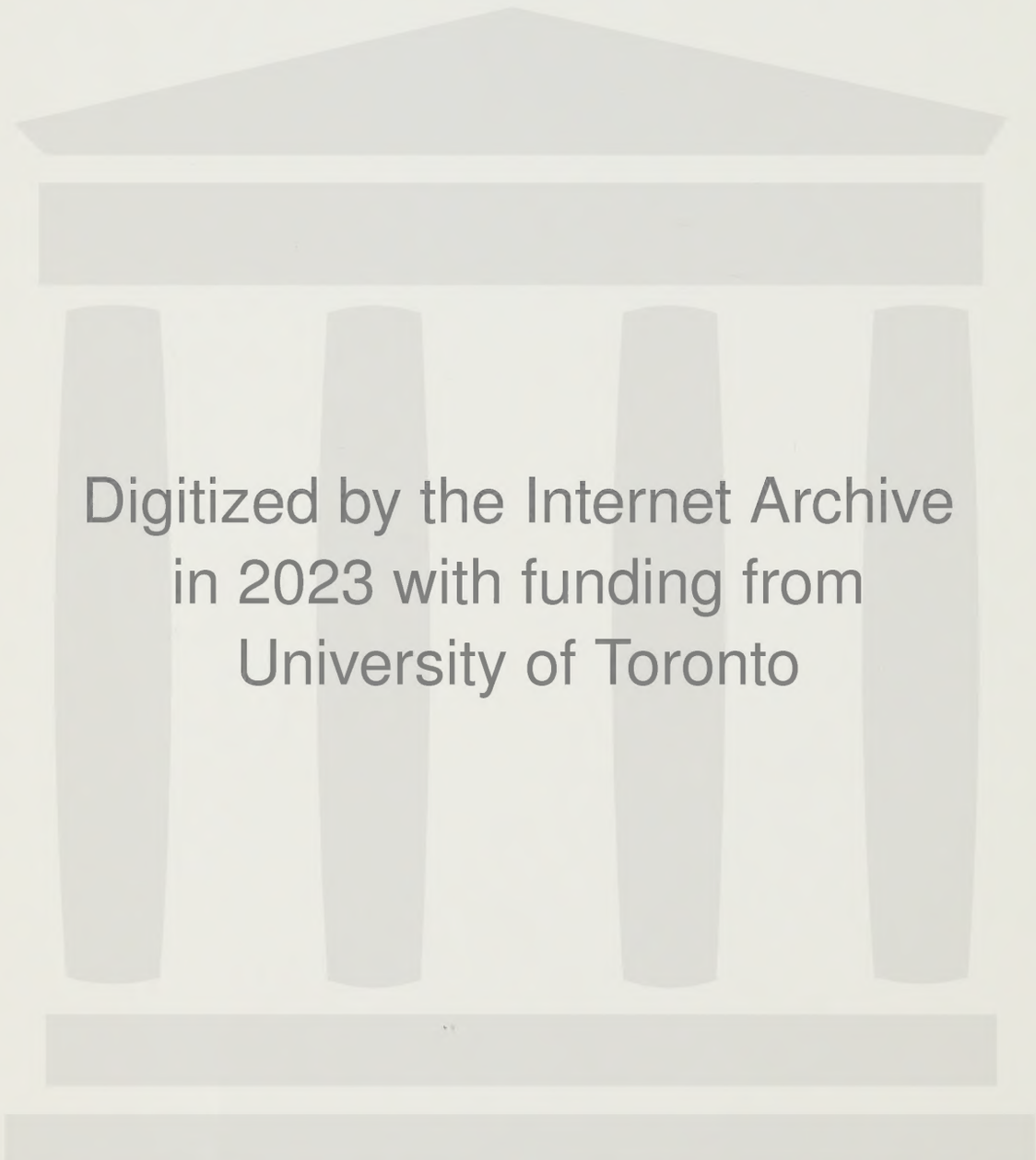
CANADA DEPARTMENT OF LABOUR

# DETERMINATION OF THE APPROPRIATE BARGAINING UNIT

BY
LABOUR
RELATIONS BOARDS
IN CANADA



Edward E. Herman



OCCASIONAL PAPER No. 5

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**Edward E. Herman**

CANADA DEPARTMENT OF LABOUR
Economics and Research Branch
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# FOREWORD

In the course of research work carried out or supported financially and in other ways by the Economics and Research Branch of the Canada Department of Labour, special studies of a technical and semi-technical nature are undertaken from time to time the full results of which are not included in the regular reports issued by the Branch. Such work, however, is occasionally of a pioneering character or sometimes contains information not available elsewhere which would be useful to research workers and others interested in manpower and industrial relations problems.

This series of occasional papers or monographs will, therefore, contain the results of such special studies, which would not otherwise be distributed as a part of the regular publication program of the Branch. The papers will cover a wide range of subjects and will be issued only when appropriate research work has reached the point at which publication is warranted.

The authors of these occasional papers will be exploring many aspects of their research findings. It should be understood that the responsibility for inferences and implications is assumed by the authors and should not be interpreted as a reflection of Departmental thinking or policy.

This paper has been edited and prepared for publication by Dennis Shimeld and R. A. Knowles.

George S. Saunders,
*Acting Director*,
*Economics and Research Branch.*

# PREFACE

Determining the appropriateness of bargaining units is the responsibility of Labour Relations Boards. There are eleven such Boards in Canada – ten provincial and one federal. To date there exists no detailed comparative study of the practices of these Boards.

The composition, type and scope of bargaining unit as well as the principles, criteria and logic applied by the various Boards in different cases, have all been considered here.

This investigation of the certified bargaining structure in Canada may also be of some significance as a foundation for further studies on the impact of the Labour Relations Boards' practices on the collective bargaining structure now emerging in this country.

My appreciation goes to Professor H. D. Woods for his ideas and suggestions which were incorporated in this study. Special thanks are due to Professor Athanasios (Tom) Asimakopulos for the many hours he spent reading this study and for his most constructive criticism, which helped to improve the quality of the work. I am greatly indebted to the Canada Department of Labour, to Dr. Gil Schonning, Director-General of Research and Development, to members of the Economics and Research Branch, and to Mr. J. P. Francis, now Director of the Research Branch, Department of Citizenship and Immigration. I would also like to thank the editors, Mr. R. A. Knowles and Mr. Dennis Shimeld, for their invaluable help and advice.

I acknowledge with deep gratitude the help received in terms of data, correspondence and interviews from officers of the various Canadian Labour Relations Boards; especially, Mr. Bernard Wilson (now Assistant Deputy Minister of the Canada Department of Labour), Mr. J. L. MacDougall, Mr. G. W. A. Lane and Mr. G. E. Plant of the Canada Labour Relations Board; Judge Allan B. Gold, Vice-President, Mr. Robert Marchand, Registrar, and Mr. Domitien Gagnon, Secretary of the Quebec Labour Relations Board; Professor Jacob Finkelman, Chairman, Mr. G. W. Reed, Alternate Chairman, and Mr. Eric Etchen, Research Director of the Ontario Labour Relations Board; Mr. N. D. Cochrane, the Manitoba Deputy Minister of Labour, Mr. M. T. McKelvey, Registrar of the Manitoba Labour Board, and Mr. J. A. King, Manitoba Chief Conciliation Officer; Mrs. Ida Jones, Secretary of the Saskatchewan Labour Relations Board, and Mr. J. E. Elchyson, Saskatchewan Chief Conciliation Officer; Mr. K. A. Pugh, Alberta Deputy Minister of Labour, Mr. H. C. French, Secretary of the Alberta Board of Industrial Relations, and Mr. J. B. Adams, Alberta Conciliation Officer; Mr. W. H. Sands, British Columbia Deputy Minister of Labour, Mr. D. W. Coton, the Registrar of the British Columbia Labour Relations Board, and Mr. B. H. E. Goult, the Chief Executive Officer, British Columbia Labour Relations Branch; Mr. Byron D. Anthony, Director of Labour Relations, Department of Labour, Nova Scotia, and Miss C. M. Wall, Secretary of the Nova Scotia Labour Relations

Board; Mr. J. C. Tonner, Secretary, New Brunswick Labour Relations Board; and Mr. C. R. McQuaid, Chairman, Prince Edward Island Labour Relations Board.

I am thankful for the data and information provided by Mr. A. J. Bates and Mr. E. L. Murray of the Industrial Relations Research Department of Canadian National Railways; by Mr. Charles Eyre of the Air Canada; and by Mr. C. R. Day of the Canadian Pulp and Paper Association.

Acknowledgements are also due to many people – who are not specifically mentioned here – in various universities, in the federal and provincial governments and in unions and industry for their comments and generous help. I am also indebted to the librarians of the McGill Commerce Library and of the library of the Canada Department of Labour.

Last, but not least, special thanks are due to my wife for the wonderful patience and understanding that she has shown during the writing of this work.

Edward E. Herman,
*Associate Professor of Economics,*
*University of Cincinnati.*

Ottawa.
August 1966.

# *Contents*

# INTRODUCTION

The object of this study is to investigate the certification practices of Canadian Labour Relations Boards, and to examine the problems encountered by them in the course of their duties. The Boards must determine the composition, type, and scope of the units they certify; to assist them they use a series of criteria which are compared and evaluated here. Their certification decisions are very important since they affect the development and structure of collective bargaining, and influence the contents and scope of labour agreements as well as the rights of employees to self-determination.

Canada has eleven Labour Relations Boards – ten provincial and one federal. One of the major responsibilities of the Boards is the certification of appropriate bargaining units within their respective jurisdictions. The jurisdiction of each provincial Board extends to all industries within the boundaries of its province, except industries that are "within the legislative authority of the Parliament of Canada."* Each Board is empowered by law to determine whether a group of employees, applying through a labour organization for certification, constitutes an appropriate bargaining unit.

The Boards must determine the composition, type and scope of the units they certify; to do this they use a series of criteria that are compared and evaluated in Part I.

The study traces up to the present time the historical development of legislation governing certification in the ten Canadian provinces, and in the area of federal jurisdiction. The legislation is examined with respect to its shortcomings, its 'rigidities', its effect on companies operating and bargaining on an interprovincial level, its heterogeneity among provinces – and the possible impact of this on the actual and certified bargaining structure.

In Part I, Chapter 3, the examination is directed to classifications of persons who, for purposes of certification, are not considered to be employees coming under the labour relations statutes. Problems of interpretation by Labour Relations Boards of the terms 'managerial staff' and 'employees in confidential capacity as to labour relations' are considered; classifications such as teachers, policemen, firemen and others, are discussed; and variations in legislative provisions among jurisdictions as to the eligibility of such occupations for certification are examined.

The major part of the study, Part II, is devoted to the certification practices of the federal and provincial Boards. In this connection the following issues are dealt with: composition of units (their employee make-up); type of units (their essential character); scope of units (their outer boundaries); policies regarding craft, office, security, hourly-paid, seasonal and part-time employees; attitudes towards multi-plant, multi-location and multi-employer units; and the special problems encountered in the construction industry.

*See Section 53, Industrial Relations and Disputes Investigation Act, 1948.

In the first three chapters of Part II, an attempt is made to find answers to the following questions:

1. *Do the Boards certify craft units? What criteria do they apply to decide whether a craft is appropriate for certification? Do they certify crafts without a history of collective bargaining? Do they certify newly emerging crafts? Do they carve craft units out of existing industrial certified units?*
2. *Do the Boards always separate, as a matter of policy, office and plant employees, or do they sometimes certify the two categories of employees in the same bargaining unit?*
3. *Do the Boards separate seasonal and part-time employees from regular full-time employees, or do they ever certify them together? What are the Boards' policies on this issue?*
4. *Do the Boards certify security guards together with other employees, or are guards excluded from such units? Are they ever certified in seperate bargaining units?*
5. *Do the Boards distinguish between hourly-paid and salaried employees in describing bargaining units?*

The practices of the Boards with regard to determining the scope of bargaining units are also investigated in Part II. The examination extends to the outer boundaries of bargaining units in industries such as construction, as well as to single-employer multi-plant units, and to other multi-location and multi-employer units Answers are sought to the following questions:

1. *Do the Boards certify single-employer multi-location units, and multi-employer units? Have they ever refused certification applications for such units?*
2. *What are the Boards' policies with regard to the appropriateness of bargaining units in the construction industry? Do they grant certification orders on a province-wide, area, or project basis?*

Some attention is also paid to the scarcity of multi-employer certificates granted by various Canadian Labour Relations Boards since the enactment of certification legislation in Canada; and an attempt is made to establish a relationship between legislative rigidities, the unfavourable attitude of the Boards towards the certification of multi-employer bargaining units, and the scarcity of such certification orders.

Also, the question is raised as to what extent the Boards are concerned – whether or not the scope of the bargaining unit that the Boards have established as appropriate for collective bargaining corresponds to the actual bargaining unit as defined in collective agreements. Throughout this study it is made evident that, frequently, there is a gap between the *certified* bargaining unit, which in most instances is a single-location unit, and the *actual* bargaining unit, which at times is a multi-plant or multi-employer unit.

The appendices contain information on the number of certifications in each jurisdiction, the number of multi-employer certifications, and the extent of multi-plant and multi-employer bargaining.

# PART I

# DISCUSSION AND HISTORY OF PROBLEMS AND CRITERIA

# 1

## DEFINITIONS AND GENERAL DISCUSSION OF THE PROBLEMS

The purpose of this study is to investigate the type and scope of bargaining units emerging in Canada. Most of it is devoted to an investigation of the certification decisions of the Labour Relations Boards. These decisions greatly influence the type of units that emerge. The criteria used by the Boards in rendering their decisions are also analyzed. The characteristics of certified bargaining units as determined by Boards have an effect on such conditions as collective bargaining, industrial peace, content and scope of collective agreements, and even on the survival of particular unions. So far, very little has been written in Canada on the appropriateness of bargaining units, although the subject is highly significant to the whole process of collective bargaining. In this study an attempt is made to fill some of the gaps in Canadian industrial relations literature.

The term 'bargaining unit' is relatively recent in origin and became prominent around 1935, following passage of the Wagner Act[1] by the United States Congress in that year. In the legal sense, the term refers to a group of employees represented by a particular labour organization which has been certified by a Labour Relations Board as the exclusive bargaining agent for all the employees in the group. Units of this type are the only ones with which employers are under a legal obligation to bargain with.

The term bargaining unit has another connotation; it is sometimes referred to in describing a group of employees that is represented by one or more labour organizations for collective bargaining, in which the scope of composition of the group is determined by the bargaining parties without the assistance of Labour Relations Boards and certification.

There is a third use of the term bargaining unit: this concerns descriptions of actual bargaining relationships, or the employees who are covered by a particular labour agreement that typically includes at least one of the previously defined units.

In order not to confuse the three types of bargaining units, the first is designated as the *certified* bargaining unit, the second as the *voluntary* bargaining unit, and the third as the *actual* bargaining unit. (A discussion on the differences between actual and certified bargaining units is in Part II, Chapter 5.)

## The Collective Bargaining Process

Collective bargaining[2] was defined by Harold W. Davey:

> "as an institutional process the principal object of which is negotiation between company and union representatives in an attempt to reach agreement on the terms and conditions of employment, i.e., wages, hours, and working conditions. Such negotiation normally culminates in the signing of a written instrument, termed a collective labour agreement or union contract, which sets forth the terms and conditions of employment for afixed period of time." [3]

Davey asserted that the process of collective bargaining covers the entire spectrum of organized relationships between unions and management, including:

> "the negotiations, administration, interpretation, and application of collective agreements." [4]

An opposing point of view has been expressed by N. W. Chamberlain, who makes a firm distinction between contract negotiations and contract administration and interpretation. He believed that such a distinction is essential "to the narrowing of areas of conflict and the enlarging of the areas of industrial order." [5]

In agreement with N. W. Chamberlain, the term 'collective bargaining' in this study is confined to the negotiations of collective agreements only.

## Bargaining Participants

The parties participating in the negotiations of labour contracts are normally employer and employee spokesmen. On the union's side, the spokesmen may be a bargaining committee of the local union or unions, with some possible assistance from union headquarter specialists; they may also be national or international union executives, or a committee representing a number of unions. Usually, the composition of the union negotiation committee depends on such factors as the union's internal organization, the composition of management's negotiation team and the area and category of employees that the union or unions represent in the particular bargaining situation. On the management side, negotiations may be conducted by the local managers of each plant, by industrial relations officers or legal counsel from the company's head office, by top executive of a company, or – in the case of multi-employer bargaining – by the representatives of a few employers or by an association committee representing a number of employers in a particular industry. In the case of centralized multi-employer collective bargaining, the negotiations of purely local issues may sometimes be conducted by local authorities, prior to or following centralized bargaining during which only major issues effecting all employees to be covered by the agreement are resolved. The choice of management's negotiating team may be dictated by a variety of factors ranging from the characteristics of the group of employees that a labour organization acts for a spokesman, to policy considerations regarding the degree of autonomy to be given to local plant management.

## The Range of Possibilities

The range of employees covered by collective agreements can be divided into four main categories: single-plant or single-location units; multi-plant or multi-location units; multi-employer units; and multi-union units.

1. In looking at single-location units, the range of employees directly covered by the negotiations of a labour contract can extend to all workers in a single establishment[6] or, in the case of an industrial plant, to all industrial blue-collar employees, to white-collar employees only, to a particular craft, to a specific category of employees such as security guards, part-time or seasonal employees, or to any permutation of these categories within the confines of a single location.
2. There are the multi-plant units where the scope of collective bargaining can embrace employees of a number of plants. In such situations any one of the categories of employees outlined in the previous paragraph could provide the make-up for a multi-plant actual bargaining framework.
3. There are multi-employer bargaining units where the scope of negotiations can encompass workers of a number of employers. Here again, the coverage of collective agreements can extend to all employees within the boundaries of the establishments included in negotiations, or only to particular categories of employees within such establishments.
4. There are multi-union units where a number of unions may jointly represent in negotiations the employees of a single or multi-location, or a multi-employer bargaining unit.

Whether a labour agreement covers (1) a single-plant unit, as distinct from a multi-plant, a multi-employer, or a multi-union unit, or (2) whether it is confined to a particular craft or classification of employees, or (3) whether it embraces all employees or only industrial employees, is determined by the following three groups: labour organizations, management, and Labour Relations Board.

### *The Role of Labour Organizations*

A labour organization usually takes the initiative and proposes the initial bargaining structure either to management or to a Labour Relations Board.

A union may seek a structure consisting of all employees in a single establishment or of a particular group of employees in such an establishment, or it may strive for a multi-establishment or a multi-employer bargaining framework, either embracing all employees within the boundaries of such a structure, or only containing certain categories of employees within the structure. In making a decision regarding the dimensions of the group that it wishes to represent, a union probably has to consider some of the following factors:

1. its organization pattern and structure;
2. the extent of its jurisdiction as prescribed in its charter;

3. the degree of inter-union competition and jurisdictional conflict which frequently "has its point of focus in the bargaining unit."[7] Often in jurisdictional disputes it is of great significance to the opposing unions as to whether "the unit is broad or narrow, homogeneous or heterogeneous, so much so that in seeking a determination of what the unit will be in any particular case, each union contends for the scope and composition which are most likely to give it victory in the unit."[8] Each union, in its rivalry with another union, may attempt to form any sort of unit it can get "no matter how small the piece may be or whether it is logically a part of the larger unit;"[9]
4. the desires of the potential union members as to the collective bargaining structure. For instance, small groups of employees with vested interests such as craft, professional or clerical workers may insist on small bargaining units of their own;[10]
5. the possibility for approval of the proposed bargaining unit by management or a Labour Relations Board;
6. the prevailing bargaining structure in the industry – whether bargaining is traditionally conducted on a craft basis as in the construction and printing industries, or on an industrial basis as in the textile or aluminum industry, or whether it is conducted on a multi-plant multi-employer basis as in the meat packing industry, or on a single-plant basis as in the shipbuilding and aircraft industries;
7. the economic features of the industry, which may include "the number of employees, the degree of concentration in the industry, the scope of concentration in the industry, the scope of the product market, the size of the establishments and their closeness to one another, and the similarity of production techniques and products;"[11]
8. the employer's administrative set-up, his organization, method of operation, degree of centralization and markets for his products;
9. the extent to which the bargaining unit is "coextensive with product market."[12]

A union probably has to consider some combination of these elements before deciding on the characteristics of the group of employees it attempts to represent in collective bargaining. There are a number of avenues of action that a union can pursue towards this end. It can attempt to obtain voluntary recognition from an employer or employers as bargaining representative for a designated group of employees. For the sake of clarity, such structures are referred to as *voluntary bargaining units*. The early bargaining units that emerged in Canada and that were the predecessors of *certified bargaining units* were so determined. These were usually established by the bargaining parties through the process of collective bargaining, usually without any external interference, and not infrequently through a show of strength. The only outside interference which appeared in some cases took the form of a Conciliation Board established under the Industrial

Disputes Investigation of 1907;[13] these Boards issued reports and recommendations which, though not legally binding on the bargaining parties, were usually accepted by them.

Following the enactment of certification legislation, such voluntary units have appeared very seldom. Theoretically, even under the certification system, such units can still come into existence: in practice, however, they are seldom determined, mainly because labour organizations are no longer permitted by law to resort to a work stoppage as a means of compelling employers to grant them recognition as bargaining agents for particular groups of employees. And with the threat of a strike over recognition no longer present, employers in most instances seem to prefer to leave the question of recognition and bargaining unit determination to a Labour Relations Board rather than to engage in direct negotiations over this issue with the unions. This attitude of employers can probably be attributed to their reluctance to get involved in issues which can have overtones of union jurisdictional conflict. Also by transferring the unit determination function to Labour Relations Boards, the employer leaves the onus of proving majority support to the union. If the union has the necessary support, the employer can still influence the characteristics of the bargaining unit by representations to the Labour Relations Boards and, at the same time, he can preserve his image of impartiality. Nevertheless, many voluntary units still exist from the pre-certification era. Some of them have remained unchanged for purposes of collective bargaining whereas others, jointly with certified units, have evolved into larger bargaining structures.

After the passage of Order in Council P.C. 1003 of 1944[14] a new avenue of action was opened to unions towards the formation of bargaining units. They could seek certification from Labour Relations Boards as bargaining agents for particular groups of employees and, following the approval of such units and the issue of certification orders, they could compel employers to commence collective bargaining. It became legally necessary for management to bargain at least with the certified units, but the bargaining parties by mutual consent could, if they so desired, extend the scope of certified bargaining to encompass a number of either certified or voluntary units or both.

In reality, the certified bargaining unit is the basic building block from which more complex structures may be erected by the bargaining parties. However, the shape of this block, its composition, type, and scope influences and sets limits upon the emerging actual bargaining framework.[15]

### *The Role of Management*

The formation of actual bargaining units is also influenced by management's policies on the subject. Management can approve of a voluntary bargaining unit proposed by labour and accept the unit as the actual bargaining unit. Alternatively, they can (1) reject it, or (2) try to modify the suggested unit through the process of collective bargaining, or (3) enlarge the scope of the unit by embracing a number of other voluntary or certified units of one or more employers. In the

past – prior to the existence of certification legislation – they could also precipitate a strike over the issue.

Management can influence the determination of appropriateness of bargaining units through the process of certification. Management is notified when a labour organization submits an application to a Labour Relations Board to be certified as a bargaining agent for a particular group of employees. In some cases, management, following such notification, would either object to such an application, or petition a Board to modify the unit proposed by the union. In some instances, the purpose of the unit modification manoeuver would be to prevent the union from obtaining certification. For example, let it be assumed that management, in its submission, was to suggest to a Labour Relations Board that certain employees not originally included in the proposed bargaining unit should be taken into it, even though the management knew that these employees were against the union. Under these conditions, the inclusion by a Board of such employees in the unit would seriously affect the support the union requires for successful certification. The weight attached to management submissions containing requests for modification of bargaining units applied for by unions varies among boards and depends on the circumstances of each case.

### *The Role of Labour Relations Boards*

The third and major party which, since the enactment of certification legislation in Canada, has become the principal force behind the formation of actual bargaining units through certification and determination of appropriateness of certified bargaining units is comprised of the Labour Relations Boards. However, before discussing the role of these Boards, a few comments should be made on the legislative developments leading to their formation.[16]

The Certification Process – In the year 1944, Canada ventured on the road of certification and towards the formation of Labour Relations Boards by adopting and legislating, on a national basis, certification principles which were embodied in Order in Council P.C. 1003[17] – a landmark in Canadian labour relations legislation. P.C. 1003 was patterned on the United States Wagner Act of 1935.[18]

Initially, the administration of the certification legislation was discharged by the Canadian Wartime Labour Relations Board, but eventually the functions of this Board were taken over by the eleven separate Labour Relations Boards in which the certification authority is presently vested.

Canada was the second[19] country in the world to introduce certification procedures as a method of settling recognition disputes and compelling employers to engage in collective bargaining. Nothing resembling the certification process exists in any other of the industrial countries of the world (e.g., England, France, Germany and Sweden) where issues of recognition are settled on a voluntary basis by the parties themselves without any external interference. Thus, the certification procedure in effect is a phenomenon confined to the North American continent, and the need for it here is – in contrast to the European examples – probably

related to the reluctance of some American employers, even at present to recognize unions and their rights to collective bargaining.

The basic reason for the introduction of the certification process in Canada was to do away with recognition disputes and work stoppages arising from them – both of which were very frequent prior to 1944, by compelling employers to bargain in good faith with bargaining agents who were granted exclusive bargaining rights through certification[20] by a Labour Relations Board as representatives of employees in a bargaining unit determined as appropriate by such a Board.

Certification establishes a bargaining unit with a legal status of its own around which a set of vested interests of union and management emerge. To protect its interests, the union will object to any encroachment on its certified bargaining unit by either management or another union – in other words, on its legally granted jurisdiction. Management will also resent, in most instances, any invasion of its union's territory by a competing labour organization, especially if this is done to fragmentize an existing bargaining unit. Frequently, management would also protest if an existing union tried to expand its jurisdiction beyond the boundaries of a legally determined bargaining unit. However, these attitudes do not preclude the possibility of the certified bargaining unit being further modified and expanded by agreement of the parties into more complex structures, with the certified unit always remaining as the base of the structure from which the parties can always voluntarily expand. In many instances, however, the certified bargaining unit remains unaltered as the actual bargaining unit.[21]

The certification process can probably be looked upon as a catalyst to collective bargaining as well as a means for elimination of disputes revolving around the recognition of labour organizations by employers. Prior to certification, recognition was a necessary requirement for the establishment of a collective bargaining relationship, and frequently this issue gave rise to serious industrial conflicts. With the institution of certification, voluntary recognition is no longer required as a necessary step towards collective bargaining, since a Labour Relations Board is now in a position to compel an employer or employers to bargain with a labour organization that the Board certifies as an appropriate bargaining agent to represent a particular group of employees. In effect, certification eliminates the grounds that in the past gave rise to recognition of disputes.

The Transfer of Unit Determination Functions – The transfer of unit determination functions from bargaining parties to Labour Relations Boards changed the nature of emerging bargaining units. Since negotiations are influenced by the characteristics of bargaining units, this transfer undoubtedly influenced collective bargaining outcomes. Descriptions of appropriateness of bargaining units by Labour Relations Boards are in all likelihood quite different from descriptions that would have been arrived at by the bargaining parties if they had attempted to settle this issue among themselves, especially as far as craft units are concerned. For example, a group of craft employees in the precertification days, desiring to bargain with their employer as a unit separate from other employees, could probably have compelled the employer, through a show of

strength, to bargain with them on such a basis. Now, since the 'strike weapon' is legally no longer available to them, and since the employer will not usually grant them voluntary recognition, they have to attempt to achieve their goals through a Labour Relations Board. However, the chances of craft employees to form their own separate bargaining units have probably diminished with certification since, in recent years in some jurisdictions, Labour Relations Boards (as shown in subsequent chapters) have not been too favourably disposed towards the certification of craft groups and, in particular, the carving out of craft from industrial groups. It is quite likely that without the certification process the position of craft unions in relation to industrial unions would have been stronger. It is also possible that there would have been more craft bargaining units than under the present certification system. These developments are examined in later chapters.

Significance of the Boards' Decisions – The determination of appropriateness of bargaining units and certification of labour unions as exclusive bargaining agents for these units are probably the most important functions discharged by Labour Relations Boards; since their formation the Canadian Boards have issued over 30,000 certification orders.[22] Their decisions on appropriateness of units can have "far-reaching effects for the labour movement" [23] since a bargaining unit determination by a Labour Relations Board "can vitally affect the survival of a union in competition with rival organization." [24] The labour movement is not alone in experiencing the impact of public determination of bargaining units; management also feels the effect of practices by Labour Relation Board on this issue. For instance, the certification by a Board of a number of competing unions to represent different groups of employees in the same company may contribute to "highly unsatisfactory bargaining arrangements." [25] As a result, a firm might be confronted with a situation that necessitates the bargaining of separate contracts with different unions; and this, in turn, might lead to competition between the various unions and might demonstrate itself during negotiations in exaggerated demands for better collective agreement provisions. Also, the existence of a number of certified bargaining units represented by rival unions in the same company might make it very difficult for a firm to introduce company-wide policies. The type, scope and composition of bargaining units that Labour Relations Boards decide on as appropriate for certification might make a difference between the certification and non-certification of a labour organization and between collective bargaining and its absence. A labour organization, in order to gain certification, must achieve a certain legally determined support from the employees in the unit,[26] and the dimensions of the unit decided upon by a Board as appropriate might affect the union's chances of obtaining the necessary support of the employees in the unit.

The practices of Boards with respect to determining the dimensions of bargaining units (as to whether they decide to certify a single or a multi-plant, or a single or a multi-employer unit) can also have important implications on such issues as industrial peace, the content and scope of collective agreements on uniformity of wages, hours of work and other working conditions. Thus, if a Labour Relations

Board decided to certify a multi-employer rather than a single-employer unit (and assuming that the single-employer unit would not evolve as a result of voluntary arrangements among the parties into an actual multi-employer unit), then in all probability the bargaining results would be vastly different from what they might have been under a single-employer certified unit.

The boundaries of bargaining units that Labour Relations Boards determine as appropriate for certification also have an effect on the characteristics of conciliation units and, as a result, on industrial relations as a whole. The Canadian certified bargaining unit is the same as the conciliation unit; in view of the existence of compulsory conciliation in Canada,[27] this relation between the two units is of great significance in any settlement of disputes where the actual bargaining unit embraces a few single-plant or single-employer units. In such situations the freedom of the bargaining parties to act in unison is restricted by the need for separate compulsory conciliation in each certified bargaining unit or conciliation unit. H. D. Woods in his study of the subject of conciliation and bargaining units points out that one of the consequences of the interrelationship of these two units is that:

> "it is practically impossible for a union to strike several plants of one company at the same time because of the necessity for independent conciliation in each dispute situation. Each conflict is related to a particular bargaining unit and the legal bargaining unit is also the legal conciliation unit." [28]

The Certified Bargaining Unit as a Static or a Dynamic Concept — Canadian labour relations legislation seems to view the certified bargaining unit as a static concept in most jurisdictions. This can be deduced from the strike and compulsory conciliation provisions in most Canadian labour relations statutes; these relate strike vote units and compulsory conciliation units to certified bargaining units rather than to actual bargaining units. There does not seem to be enough recognition in the statutes of the dynamics of bargaining units and of the possibility of a gap between the boundaries of certified and actual bargaining units. In reality, bargaining units do not remain static; they change over time. Provincial Labour Relations Boards usually confine certification orders to single-plant or single-location units (see following chapters), whereas an investigation of actual bargaining units in most Canadian jurisdictions discloses the existence of many multi-plant and multi-employer bargaining units.[29] This indicates that some actual bargaining units embrace a number of certified bargaining units. It is likely that some of the actual bargaining units were arrived at through private arrangements of the parties without any Labour Relations Board certification; however, others were (probably) initially single-plant or single-location certified bargaining units and later on evolved into more complex structures by mutual consent of both parties. But, this evolution is certainly not facilitated by present labour relations legislation which seems to be geared to the static concept of a certified bargaining unit.

Discretionary Powers — In Canada there are eleven Labour Relation Boards, ten provincial, one federal, and each is vested with broad discretionary authority to determine the appropriateness of bargaining units.

Most of the current labour relations statutes authorize the Boards to determine the unit of employees that is appropriate for collective bargaining. For example, Section 9(1) of the Industrial Relations and Disputes Investigation Act states that:

> "where a trade union makes application for certification under this Act as bargaining agent of employees in a unit, the Board shall determine whether the unit in respect of which the application is made is appropriate for collective bargaining."

And Section 61(f) states that the Board shall decide whether a group of employees is a unit appropriate for collective bargaining and its decision shall be final and conclusive.

Such provisions can be found in the Acts of Ontario,[30] British Columbia,[31] Manitoba,[32] Nova Scotia,[33] New Brunswick,[34] Newfoundland,[35] and Prince Edward Island;[36] and provisions vesting Labour Relations Boards with similar bargaining unit determination powers are also found in the Quebec,[37] Alberta,[38] and Saskatchewan[39] Acts.

However, the discretionary powers granted to Labour Relations Boards in determining the appropriateness of bargaining units are modified by a number of qualifications which vary between labour relations statutes. In the first place, the jurisdiction of each Board is limited (in the case of provincial Boards to industries within provincial boundaries, and in the case of the federal Board to industries within the jurisdictional authority of the Industrial Relations and Disputes Investigation Act).

Second, there are certain categories of employees not entitled by legislation to be certified and these categories vary between jurisdictions.

Third, the discretionary powers of the Boards are restricted with respect to certifications of multi-employer, multi-union and craft units and, even in some jurisdictions such as Ontario, these discretionary powers (concerning such issues as guard certifications, for example) are restricted by specific legislative provisions.

Finally, in certain jurisdictions (for example, Nova Scotia and Prince Edward Island) some of the criteria to be applied by the Boards in determining the appropriateness of the bargaining unit are stipulated in legislation. Section 9(5) of the Nova Scotia Trade Union Act and Section 16(2) of the Prince Edward Island Industrial Relations Act each states that:

> "The Board in determining the appropriate unit shall have regard to the community of interest among the employees in the proposed unit in such matters as work location, hours of work, working conditions and methods of remuneration."

However, in most jurisdictions the criteria are not legislated but are decided upon by Labour Relations Boards.

Apart from these restrictions, so far as the legislation is concerned, the Boards enjoy broad discretionary powers in the determination of appropriate bargaining units within their respective jurisdictions.[40] Nevertheless, these powers are more restricted in some areas than those that the unions, prior to certification, were sometimes capable of exercising. They were then able to strike for recognition and for

the establishment of interprovincial bargaining units in industries under provincial jurisdiction. Although under the present system the unions can still try to form interprovincial units, their success in this regard depends on the attitudes and policies of management towards such units. Also, without this legislation, the unit-determination powers of unions would be greater than that of the present Labour Relations Boards with respect to determination of multi-employer units.[41]

What this implies is that, with the introduction of the certification process, union powers (as far as the recognition and determination of actual bargaining units are concerned) have, in a sense, been diluted and transferred to administrative agencies such as the Labour Relations Boards. However, this does not mean that the labour movement as a whole has been weakened by it; on the contrary, the frequency of union recognition and the extent of collective bargaining has probably been much greater as a result of the certification process than it would have been without it — although it is most likely that in the process the characteristics of emerging bargaining units have changed and the relative strength of some labour organizations, especially craft unions, has suffered.

Alternative Types of Certified Bargaining Units — Although Labour Relations Boards do not have as many choices in the determination of bargaining units as the bargaining parties have, nevertheless, the Boards still have a reasonably wide variety of alternative units that they can establish.

At times the choice of units confronting the Boards represents serious problems. These can be classified under the following categories. Who are the employees legally eligible for certification? What should be the description and composition of the bargaining unit? What type of unit should be determined? What should be the scope of the unit?

Concerning the eligibility of employees for certification, the decisions that the Boards have to make come under two headings: simple and complex.

The simple decisions concern exclusions from certification of employees who are not considered to be covered by labour relations statutes. Who such employees are varies among jurisdictions; for instance, in Ontario and Alberta, policemen and firemen are not considered employees for purposes of certification whereas, in Quebec, they are.

The exclusion from certification of employees whose titles are clearly defined is relatively easy, but there are other categories of employees (e.g., managerial staff and employees engaged in a confidential capacity) who — according to statutes in nearly all jurisdictions — are to be excluded from certification and whose exclusion is a complex and significant problem confronting the Boards. The Boards are vested with the authority to determine who are the confidential and managerial employees. This is not an easy task since the titles, functions, and responsibilities of such employees vary considerably among firms. The decisions that the Boards make — as to whether a particular group of employees is considered to be fulfilling managerial or confidential positions and, therefore subject to exclusion from

certification in a proposed bargaining unit might have a significant impact, on the certification chances of a union, especially in marginal cases.

Exclusion or inclusion of managerial or confidential employees in bargaining units prior to certification could affect the percentage of employee support that a union might obtain. In marginal cases this could mean the difference between the issuance of a certification order and its Siamese twin, collective bargaining, or the absence of both. Other decisions that the Boards have to make relate to type[42] and scope[43] of bargaining units. The spectrum of choices confronting Labour Relations Boards in this area can best be analyzed from an examination of the alternative bargaining situations described in this introduction.

Labour Relations Boards are sometimes faced with a dilemma which centres on the concept of self-determination. The Boards have to make decisions on whether to certify larger groups – and thus possibly deny self-determination to the smaller groups – or to certify the smaller groups, and carve them out of the existing larger units. The former problem usually occurs where a Board has a choice between certifying single-employer, single-plant, or any other single-location units versus multi-employer, multi-plant, or multi-location units. The latter problem most frequently involves craft and industrial units where a craft union might attempt to carve a craft unit out of an established industrial unit with a history of collective bargaining. In such cases a Board might have to make a decision on whether freedom of choice and self-determination rights of the craft employees should outweigh the advantages of continuing an existing pattern of collective bargaining on an industrial unit basis – thus maintaining stability at the expense of workers' freedom of choice. Questions also arise as to whether, in the interests of democracy, Boards should allow small units of employees to separate from the larger established industrial units that already have a history of successful negotiations, and whether it is essential to the concept of free representation for the choice of the employees to be reduced to the smallest scale.

There are no ready-made answers to these questions. It can only be assumed that the Canadian Boards vary their policies between the two alternatives–freedom of choice and stability in the collective bargaining relationship – with more emphasis being given in recent years to stability, especially in the issue of carving craft units out of industrial units.

Principles and Criteria – The Labour Relations Boards have evolved a number of criteria to assist them in determining whether the unit applied for is appropriate for certification. These can be classified in one or more of the ten following categories:[44]

1. The Boards consider the purposes, intent and provisions of the legislation governing the certification and determination of appropriateness of bargaining units within their respective jurisdictions.
2. Community or mutuality of interest with respect to wages, hours, working conditions, and other collective bargaining objects of employees to be certified in the same bargaining unit, is also an important guideline for Boards.

Judge A. Gold, Vice-President of the Quebec Labour Relations Board states in one of his decisions: "The unit must have a certain homogeneity and separate group identity which makes it capable of being distinguished from the other employees or groups of employees in the working force." [45]

3. The Boards take into account the prior history and pattern of collective bargaining of the bargaining unit in question.
4. The history, and the extent and type of labour organization connected with the determination of the unit and with other employees of the same employer (and in some instances with other employers in identical, similar, or analogous, industries in the same area) are other important criteria applied by the Boards.
5. The desires of the employees as to the bargaining unit in which they wish to be included in still another guideline for Boards.
6. Some Boards, such as that of Ontario, pay attention to the eligibility of employees for membership in a particular labour organization.
7. The employer's administrative set-up, the organization and method of operation (whether centralized or not), the relationship to the proposed bargaining unit, and the way that the unit fits into the company's organization, are still other criteria for the Boards.
8. When determining the appropriateness of bargaining units, the Boards may also take into consideration the collective bargaining record of an existing bargaining agent with regard to the employees in a unit previously certified as appropriate.
9. Although the cardinal rule of the Boards is that each case must be decided on its own merits, nevertheless, in practice and when determining the appropriateness of units, the Boards pay considerable attention to prior decisions from which policy principles emerged concerning the establishment — or other establishments of the same employer or of identical, similar, or analogous industries.
10. The agreement of the parties on a particular bargaining unit is another very important factor that the Boards take into consideration. Though it is the duty of the Boards to establish the appropriateness of units independently of the will of the parties, in practice, when the parties agree on the type and composition of a bargaining unit, the Boards will usually approve of such a unit, even if the unit is not completely in line with the Boards' previous certification practices. (This assumes that the unit is within the Boards' legislative powers.) Judge A. Gold[46] of the Quebec Labour Relations Board has stated that such units are acceptable "on the theory that if the parties feel that they are capable of negotiating a collective agreement for the unit in question it is our duty to render the necessary assistance to achieve this purpose."

There are also other factors which are peculiar to specific situations that the Boards take into consideration in determining the appropriateness of bargaining

units, but the factors already outlined probably cover most of the significant criteria applied by the Boards. The importance of these standards varies considerably from situation to situation; in some cases a Board might give more weight to one factor than to another, depending on the circumstances of each case.

### *Historical Problems*

Basically, the present problems are not new, nor did they arise as a result of the certification procedure or the formation of Labour Relations Boards; in effect they are as old as the collective bargaining process itself. In the past, prior to the existence of the Boards, whenever there was collective bargaining, the question invariably arose as to what should be the range of employees to be covered by the agreement; in other words, what should be (using the present terminology) the appropriate bargaining unit.[47]

An examination of collective agreements even as early as 1896 reveals that labour contracts contained references to, and definitions of, groups of employees agreed upon by the parties; in other words, they pertained to what is presently regarded as bargaining units.[48] Many of the early Canadian agreements (which were frequently negotiated by International Unions and which embodied provisions concerning what is currently known as bargaining units) were patterned on United States agreements that had a much longer negotiation history than Canadian agreements.[49]

In many cases, however, before a collective agreement was entered into and before the parties agreed on what should constitute an appropriate group of employees, or bargaining unit for purposes of collective bargaining, industrial conflict arose mainly over the issue of union recognition – and also sometimes over the composition, type, and scope of what are now known as bargaining units. Available evidence illustrating this can be traced, via decisions of the Boards of Conciliation (I.D.I. Boards) established under the Industrial Disputes Investigation Act of 1907[50] (I.D.I. Act), thirty-five years before the existence of the certification process or enactment of certification legislation in Canada.[51]

## Observations

In this chapter the process of collective bargaining and various categories of bargaining units are defined; the bargaining structure is outlined; and the role of labour unions, management, and Labour Relations Boards in determining the appropriateness of bargaining units is discussed. Particular attention is given to the following topics: the emergence of the certification process; the transfer of bargaining unit determination functions from bargaining parties to Labour Relations Boards; the significance of the Boards' decisions in this area; the Boards' discretionary powers; the alternative types of bargaining units that Boards could determine; the criteria that Boards employ in discharging their obligation in this field; and finally, it is indicated that many of the bargaining unit problems confronting the Boards existed prior to certification and are not new.

# 2

# THE DEVELOPMENT OF PUBLIC POLICY AND LABOUR RELATIONS LEGISLATION— CANADA AND THE UNITED STATES, 1900-1963

At the beginning of this century there was scarcely any legislation affecting collective bargaining or the formation of bargaining units in Canada, and federal and provincial authorities tended to stay clear of involvements in this area. Nowadays, the opposite is true: both authorities play a very active part in stimulating negotiations and creating bargaining units through certification legislation and compulsory collective bargaining.

Another evolution in the past fifty years has been the division of jurisdictional authority over labour relations. Until 1925 federal jurisdiction dominated the labour field; after 1925 the provinces slowly began to assume jurisdiction and eventually gained control over the labour relations of most Canadian industries.

The transition from federal to provincial jurisdiction, the change in policy toward collective bargaining and the reasons for it, developments in the United States that had an impact on Canadian policy are all considered in this chapter.

## The Industrial Disputes Investigation Act

The Industrial Disputes Investigation Act of 1907 (the I.D.I. Act) had a significant influence on collective bargaining and the determination of bargaining units in Canada. The purpose of this Act was

> "to aid in the prevention and settlement of strikes and lockouts in mines and industries connected with public utilities."

From previous federal conciliation legislation,[1] the Act incorporated the principles of compulsory investigation by government-appointed Boards. It also relied on the pressure of public opinion for the Boards' written recommendations to be accepted by the various parties concerned. In addition, the Act contained a more coercive element that prohibited the stoppage of work pending investigation.

One of the important contributions of the I.D.A. Act, from the point of view of trade unions, was the procedure for bringing together the employer and employee representatives. The I.D.A. Act also facilitated recognition by employers of employee committees and trade unions, and encouraged collective bargaining. Although the Act did not have any provisions similar to present-day

legislation (e.g., recognition of the right of labour to organize, making union recognition and collective bargaining compulsory, and provision for certification of labour unions):

> "a vote of the employees in support of an application for a Board was an approximation to certification, likewise the fact that the union could use the Act to force an employer to sit before a Board upon which both parties were represented, and the power of such a Board to compel the submission of evidence and information introduced a *de facto* compulsory recognition." [2]

At that time, the element of actual union recognition was of great importance for unions; most of them were relatively weak and it was very difficult for them to gain recognition from employers and to commence collective bargaining.[3] A fundamental issue "at the time was whether there was to be collective bargaining or not." [4] Mackenzie King[5] realized this, as is apparent from his statement on the Lethbridge coal strike of 1906, when he said:

> "The men there were very much incensed at the Company being unwilling to meet them, and they were equally provoked at the inability to get at the facts when we were working on them, and I said to them when we were discussing the matter that if we could not get this information that we were after or get this meeting we were trying to bring about on a voluntary way, I would get legislation through Parliament to compel it if they would back me upon it, and they were highly agreeable to that point of view at the time." [6]

The enactment of the I.D.I Act of 1907 was a big step forward in Canadian industrial relations. Eventually, the main provisions of the Act were incorporated in Order in Council P.C. 1003 of 1943 and, later, found their way into the Industrial Relations and Disputes Investigation Act of 1948.

A significant feature of the I.D.I. Act was the provision for postponing strikes until completion of the process of conciliation and examination. The principle of compulsory conciliation embodied in the Act was important, not only in the context of the operation of the I.D.I. Act, but in its relevance for present-day labour relations legislation as a method of settling negotiation disputes.[7] The compulsory investigation and conciliation provisions of the Act applied only to mining, transportation, communication and public utilities, but other industries were able to take advantage of the process on a voluntary basis.

In the first years of operation of the I.D.I. Act, there were only a few voluntary petitions on a mutual basis to the Minister of Labour to request the formation of Conciliation Boards; however, these petitions increased with time. From 1907-1919, six per cent of the applications for Boards were voluntary, but these had increased to twenty-eight per cent by 1920-1923.[8]

This increase in the percentage has been interpreted by H. D. Woods[9] as an indication of the growing acceptance of collective bargaining. Woods states that:

> "The mere act of mutual acceptance of a Board is a *de facto* recognition. It is unlikely that an employer who had no intention of recognizing a union as the representative of his employees would be prepared to take the contradictory step of entering into a joint agreement with a union to request a Conciliation Board, before which both would appear with the object of resolving their differences." [10]

The I.D.I. Act, and the Conciliation Boards established under it, undoubtedly influenced the future development of labour relations legislation and policy in Canada. For example, from as early as 1909,[11] the Conciliation Boards dealt with topics relating to the appropriateness of bargaining units, and were concerned with such issues as the exclusion of confidential and supervisory employees. The experience acquired by the Conciliation Boards, and the recommendations issued, certainly influenced subsequent certification legislation[12] that concerned the confidential and supervisory staff, as well as the practices of Canadian Labour Relations Boards.

Until 1925, and within its defined coverage, the I.D.I. Act applied to all industrial disputes without differentiating between conflicts occurring in industries subject to provincial or federal jurisdiction under the British North American Act. However, in January 1925 the Privy Council declared the I.D.I. Act *ultra vires* and the Act had to be amended making it applicable only to the following disputes:

1. Disputes "within the legislative authority of the Parliament of Canada."
2. Disputes that were not "within the exclusive legislative authority of any provincial legislature."
3. Disputes "which the Governor in Council could by reason of any real or apprehended national emergency declare to be subject to the provisions of this Act."
4. Disputes that were within "the exclusive legislative jurisdiction of any province" and "which by the legislation of the province" were "made subject to the provisions of this Act."

The amended version of the I.D.I. Act made it possible for provincial authorities to enact enabling legislation making the Act applicable to industries within provincial jurisdiction. Subsequently, the provinces of Nova Scotia, New Brunswick, Quebec, Ontario, Manitoba, Saskatchewan, Alberta and British Columbia took advantage of this provision of the amended I.D.I. Act.[13]

The 1925 decision of the Privy Council was of great significance for the future of labour relations in Canada. It laid the foundation for allocating jurisdictional authority over labour relations, and vested the responsibility for labour relations in most Canadian industries under provincial jurisdiction.

## Developments in the United States in the Thirties

Following the 1925 Privy Council decision declaring the I.D.I. Act *ultra vires*, its amendment that year, and the enactment of enabling provincial legislation in the various jurisdictions between 1925 and 1932, there followed a five-year period of relative legislative inaction in Canada that ended with new legislative developments in the United States in the post-1930 period. These developments had significant implications for Canadian labour relations policy and legislation. Canada, influenced by the United States, accepted "unionism and collective bargaining as a right."[14] These concepts, together with the older Canadian policy of

compulsory conciliation and investigation of labour conflicts and strike postponement, were the principal elements that moulded the future of Canadian labour relations policy and legislation. However, before discussing Canadian policy and progress in legislation, some attention should be devoted to legislative developments in the United States; these had a direct impact on Canadian labour relations legislation. From the Canadian point of view at this time, the most important measure was the Wagner Act of 1935 that introduced compulsory collective bargaining in the United States.

The purpose of the Wagner Act was to settle problems of union jurisdiction and recognition through the process of certification.[15] The Act embodied some very important collective bargaining principles that can be summarized:

> "1. Employees shall have the right to self-organization and may designate representatives of their own choosing for the purpose of collective bargaining;
>
> 2. Conversely, employers shall not interfere with, restrain, or coerce employees in organizing or selecting representatives;
>
> 3. Representatives for collective bargaining may be determined by an election conducted by secret ballot; those elected by the majority shall represent all the employees;
>
> 4. The employer shall recognize and deal with the representatives designated by his employees." [16]

Until the enactment of the Wagner Act, labour and management frequently came into conflict over collective bargaining rights; but the Act legislated collective bargaining as a right and changed all this. However, by doing so it brought into focus the problem of determining bargaining units – one that, before the Act, was settled by the parties, but which the Act brought under the jurisdiction of the National Labor Relations Board (NLRB): before giving legal recognition to a bargaining unit, the NLRB had to pass judgment, at least implicity, on the 'appropriateness' of the unit.

The disastrous depression beginning in 1929 probably set the stage for the enactment of the Wagner Act. Until then, the American Federation of Labor (AFL) with a membership of a hundred or more national unions[17] had objected to government interference or legislation in labour relations;[18] with the coming of depression, the AFL forsook its traditional policy of government non-interference. (This policy was based on the philosophy of Samuel Gompers.) In 1933, the AFL appealed to Congress to pass legislation limiting work to thirty hours a week. Although Congress did not enact such legislation, this request was a turning point in the long history of the AFL, which had never asked previously for government assistance in regulating hours of labour and wages.[19] The reason for this shift in policy can probably be found in the conditions of the thirties, i.e., extremely high levels of unemployment and falling wages.

At the time labour asked for legislation of the thirty-hour work week as a means of spreading available work without a reduction in wages, the Roosevelt administration was working on a program for general recovery.[20] The basic elements of this program were incorporated in the National Industrial Recovery Act of 1933.

This Act affected many facets of the United States economy and, among others, it had provisions in the form of Section 7(a)[21] for regulating labour relations. Surprisingly enough, however, "labor groups played no role in initiating the recovery bill."[22]

The National Industrial Recovery Act was a prelude to the Wagner Act and Section 7(a) embodied the principle of the right of employees to collective bargaining through spokesmen of their own choosing; however, the basic shortcoming of this section was the lack of procedure for its enforcement. The Section affirmed the right of employees to organize and designate bargaining representatives, but it did not stipulate how these representatives should be determined, nor did it compel employers to recognize and deal with such representatives.

Despite these shortcomings, and although Section 7(a) was in existence for only two years, organized labour benefitted from this intervention of the government, and the AFL membership increased by 800,000.[23] Consequently, when the National Industrial Recovery Act was declared unconstitutional, organized labour in the United States no longer shield away from government interference;[24] on the contrary, it began asking for government legislation similar to Section 7(a) and containing more compulsory features. These efforts were successful with the enactment of the United States Wagner Act of 1935.

The ideas embodied in Section 9(a) and (b)[25] of the Wagner Act can be traced back to earlier United States statutes and developments that were a prelude to its enactment. These concepts governed the determination of appropriateness of the bargaining unit, as well as the granting of *exclusive bargaining rights*, for both union and non-union nmbers, to unions representing a majority of employees in a particular unit.

### *United States Prior to the Wagner Act*

The first attempts of an official tribunal of the United States Government in determining the appropriateness of bargaining units can be traced back to decisions of the National War Labor Board of World War I. In many cases, the Board utilized election techniques in order to determine employee representatives.[26]

The next development towards collective bargaining and determining the appropriateness of bargaining units in the United States took place in 1921: the Railroad Labor Board erected a structure of principles that embodied provision for the employees' right and freedom to organize and to select their own spokesmen and exclusive bargaining rights. These principles stipulated that:

> "The majority of any craft or class of employees shall have the right to determine what organization shall represent members of such craft or class. Such organization shall have the right to make an agreement which shall apply to all employees in such craft or class."

Except for notable ones concerning election and majority rule, some of these principles were codified in the United States Railway Labor Act of 1926, and the ideas contained in this Act were very important for the subsequent development

of United States labour relations law. The Railway Act recognized the right of railroad employees to bargain through their own spokesmen that were selected without interference from management. It compelled railway management to recognize and bargain collectively and exclusively with these spokesmen concerning such issues as wages, rules and working conditions. Although the Act applied to railways only, some of these principles (e.g., the freedom of employees to select their own spokesmen, exclusive bargaining rights, compulsory recognition, and compulsory collective bargaining) were later embodied in the Wagner Act that applied to all industries.

## Freedom of Association Legislation in Canada

The United States Wagner Act of 1935, and the Supreme Court decision of 1937 upholding it became a very important organizational tool for the AFL and the new Congress of Industrial Organization (CIO) despite strong opposition from employers. Since these two bodies had many affiliates in Canada, it was only natural that Canadian labour should request similar legislation to the Wagner Act. The Trades and Labour Congress of Canada, at its fifty-second annual convention held in Montreal in 1936, dealt quite extensively with the question of recognition. The President of the Congress, Mr. Draper, stated that:

> "the Government should provide by law that all employees should have the right to organize for their own protection and that the power of the state should support the worker's exercise of his natural right to organize in labour unions of his own choice." [27]

The Montreal convention also made arrangements for drafting a bill to be known as "The Workers' Right to Organize Bill;" its chief purpose was to make it lawful for employees to form themselves into trade unions. The draft bill, accompanied by legal opinion was submitted to the various provincial legislatures since, under the BNA Act, the enactment of such a bill fell within provincial jurisdiction and its main provisions were incorporated in labour legislation enacted in Nova Scotia, British Columbia, Saskatchewan, Alberta, and New Brunswick, within the next two years. Manitoba and Quebec accepted some of the principles of the bill, while Prince Edward Island and Ontario were the only two provinces that did not respond to the representations of organized labour. Although the provincial Acts were the direct consequence of the enactment of the United States Wagner Act, they did not follow the United States Statute in providing administrative or enforcement machinery for the implementation of their provisions.

## Compulsory Collective Bargaining in Alberta, British Columbia and Ontario

The weaknesses of the provincial Acts were partly remedied by some of the provinces in 1943. In that year, the Alberta Industrial Conciliation and Arbitration Act was amended to make collective bargaining compulsory in the province. The amendment to the Sections relating to collective bargaining reads that a trade union or a negotiating committee representing the employees affected:

> "may serve upon the employer or employers a notice of a meeting to be held for the purpose of bargaining . . . . The notice shall be served upon the employer or employers at least 48 hours before the meeting."

The amended Act also stipulated that any employer refusing to participate in such a meeting would be subject to a maximum fine of $500 for not attending or $500 for refusing to negotiate with the spokesmen for his employees.[28]

During 1943, the British Columbia Industrial Conciliation and Arbitration Act was also overhauled and patterned on the Wagner Act of the United States. The amended Act made collective bargaining compulsory; employers were required to negotiate with the unions to which a majority of their employees belonged and broadened the scope of the bargaining unit by embracing non-union members in unionized groups.[29] The British Columbia Act also had a provision that was equivalent to certification of a bargaining unit: it specified that the Minister of Labour must be notified of the election of bargaining representatives regardless of whether they were elected by the employees or a trade union and, if the Minister were satisfied that the bargaining representatives had been duly constituted, he was to notify the employer and the employees or union; following this notification, the employer had to bargain with the representatives who were approved by the Minister. This Act was the first Canadian legislation providing, through the Minister of Labour, an administrative machinery for the approval of appropriate bargaining representatives.[30]

Another important development in provincial labour legislation in 1943 was the passage of "The Collective Bargaining Act of Ontario." The Act stipulated in Section 2(2) that:

> "employees may form, join, or assist any collective bargaining agency and may select or designate any collective bargaining agency for the purpose of bargaining collectively with their employers."

The Ontario Act required that an employer must bargain with the spokesmen of a "collective bargaining agency," which had been certified as appropriate for collective bargaining purposes in accordance with the provisions of the Act. The Statute was administered by the Labour Court of Ontario, a branch of the High Court of Justice of the province. Upon any application for certification, the Court had the authority under Section 13(5-a) to:

> "ascertain what unit of employees is appropriate for the purpose of collective bargaining and to determine whether such unit shall be the employer unit, craft unit, plant unit or a subdivision thereof."

While provincial legislatures were busy enacting labour laws patterned on the Wagner Act, federal jurisdiction was relatively dormant.

## Dominion Order in Council P.C. 2685

Order in Council 2685 of 1940 was one of the first measures of any consequence to be enacted by the federal Government; this Order affected the determination of bargaining units. It followed the passage of the various amendments of the Industrial Disputes Investigation Act of 1907 and was a formal declaration of

principles to govern industrial relations in wartime. The declaration recommended that workers should be free to organize into trade unions, and that no employer should interfere with this right. It also recommended that employees should be permitted to negotiate with their employer through the officers of their trade union or through other representatives chosen by them.

The lack of provision for administrative enforcement machinery was the shortcoming of this federal measure and, also, of the provincial Labour Relations Acts of 1937-38.[31] Despite this, however, Order in Council P.C. 2685 was more effective than the provincial statutes, mainly because the Conciliation Boards established under the I.D.I. Act based many of their recommendations on it.[32]

## Dominion Order in Council P.C. 1003

The major principles of the I.D.I. Act, of the Wagner Act of 1935 (United States), and of the provincial Labour Relations Acts of 1937-1943, were eventually incorporated into the new Order in Council P.C. 1003 that was passed by the federal Government on February 17, 1944, under the authority of the War Measures Act. The measure provided for compulsory collective bargaining between employers and employees in war industries, and established a procedure for the settlement of industrial disputes.

Order in Council P.C. 1003 embodied the principles of freedom of association, compulsory union recognition, compulsory collective bargaining and a system of defining and certifying bargaining units. It was a landmark in the development of Canadian labour relations legislation and significant in that it combined the United States and Canadian approaches to industrial relations into a single Act. The Order in Council was also important because of its national coverage for it embraced industries that were previously under provincial jurisdiction.

In the period after World War II the provinces recovered their jurisdiction over many of the industries that had come under P.C. 1003 but, nevertheless, the Order in Council became a prototype for post-war provincial jurisdiction.[33] It applied to a number of classes of employers and their employees:

1. Employers in industries of a national or interprovincial character that were ordinarily within federal jurisdiction, including crown companies engaged in the handling or manufacture of war supplies.
2. Employees in war industries (these being industries described as such in the Order in Council or added later by the Governor in Council as the result of experience or changed wartime conditions).
3. Employers in industries under provincial jurisdiction where a province by appropriate legislative action had brought these within the scope of the regulations.

In effect, the federal Government extended its jurisdiction over employer-employee relations in areas that normally came under provincial jurisdictions exclusively.[34]

The Order in Council had also, under Sections 3(c) and 4, provision for arrangements to be made between any province and the country as a whole to set up provincial administrative tribunals to deal with local matters. However, as stipulated in Schedule 'A', the National Labour Relations Board had the right to formulate regulations and general policy to ensure uniformity by provincial agencies in applying the Order in Council to wartime industries. Decisions of the regional Boards could be appealed to the National Labour Relations Board; for example, 103 appeals from decisions of provincial Labour Relations Boards were handled by the National Labour Relations Board in 1946,[35] the Board upholding thirty appeals and denying seventy-three.

Under the Order in Council the National Labour Relations Board had the right to delegate some of its authority with respect to wartime industries to provincial authorities. Consequently, agreements were reached between federal and provincial governments that established wartime Labour Relations Boards in Manitoba, New Brunswick, Nova Scotia, Ontario, Quebec and Saskatchewan. Resulting from a provision in P.C. 1003[36] and special provincial enactments, the wartime Labour Relations Boards in British Columbia, Manitoba, New Brunswick, Nova Scotia and Ontario were vested with authority to apply the Order in Council to provincial industries other than war plants and services but, in Quebec and Saskatchewan, P.C. 1003 was applied only to wartime industries. (In British Columbia the provincial Minister of Labour was in charge of the regulations concerning war industries.) With respect to Alberta and Prince Edward Island, war industries came directly under the jurisdiction of the National Labour Relations Board for these two provinces had not signed any agreements with the federal Government. The *provincial* industries of Quebec, Saskatchewan, Alberta and Prince Edward Island, however, were subject to separate provincial legislation.

## Comparisons of Canadian and United States Policy and Legislation

Comparing the Canadian and United States approaches to labour relations reveals some basic differences between the two. In the United States policy and legislation stressed the necesssity of "controlling private power possessed by employers so as to guarantee the freedom of workers to exercise their right."[37] This is evident from the Wagner Act which had no provisions similar to Canadian legislation of the period for dealing with disputes through strike postponement and compulsory conciliation but, instead, emphasized the desirability of collective bargaining.[38] The United States statute accentuated such principles as freedom of association, the absence of employer domination of trade unions and the right of workers to choose their own bargaining agents. The Act also required employers to grant recognition to bargaining spokesmen who were selected by their employees, and to enter into collective bargaining relations with them. As stated by H. D. Woods:

> "there was a clear assumption in the American law that the road to industrial peace was paved with collective bargaining. The role of government was therefore to make this process compulsory and then let it work by itself, with only an incidental assist from conciliation where that might be useful and the parties might be willing to accept it. There was no restraint on the strike." [39]

The Wagner Act stipulated:

> "It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstruction to the free flow of commerce . . . by encouraging the practice and procedure of collective bargaining."

It is interesting to observe that this statement of positive support for collective bargaining[40] is incorporated in subsequent United States statutes — even in the Taft-Hartley Act of 1947,[41] which is considered hostile to trade unions.

While Canadian labour relations law after 1935 was greatly influenced by United States legislation, one of the United States policy principles that never appeared in Canada was an official statement:

> "that collective bargaining is a 'good thing' and that its encouragement is in the public interest . . . . Collective bargaining has been made a right in Canada under certain circumstances but has not been declared to be a desirable method of settling issues of industrial relationship." [42]

Canadian legislation, as contrasted with that of the United States, stresses intervention in actual or potential conflict through compulsory conciliation; as has previously been shown, it is more difficult to broaden actual bargaining units when there are legislative provisions for compulsory conciliation and where the certified bargaining unit is the same as the legal conciliation unit. Although Canada adopted the United States system of certifying and determining the appropriateness of bargaining units by retaining the compulsory conciliation provisions in its statutes, in effect, Canada introduced a possible rigidity into the evolution of the actual collective bargaining structure.

Although the development of labour relations legislation in the United States has had a significant impact on many Canadian legislative provisions, nevertheless, there is an important difference between the two countries that has resulted, despite legislative similarities, in a development of distinct concepts of appropriateness of bargaining units. This difference has contributed largely to the emergence of single-employer, single-plant, certified bargaining units in Canada, as distinct from the multi-plant or even of multi-employer certified bargaining units in the United States. It is the difference of the constitutional allocation of powers between Canada, with its federal and provincial levels of government, and the United States, with its state levels of government.

In the United States, the constitution, "as interpreted by the courts, has assigned the major role in labour relations to the federal Government, whereas in Canada the reverse is true; the Dominion Government has a decidedly limited, though particularly troublesome,[43] jurisdiction while the provincial governments retain authority in the major industrial sector where the vast majority of labour relations issues are to be found." [44]

## Post-war Labour Relations Legislation

The end of World War II brought serious adjustment difficulties. The authority of the federal Government under Order in Council P.C. 1003 was coming to an end:

> "and either a new constitutional arrangement or a high level of co-operation among the various jurisdictions would be needed if even the degree of a national system or labour code which had been achieved during the war was to be maintained." [45]

During the war, compulsory collective bargaining and certification laws had been introduced throughout Canada. The existence of such legislation encouraged labour unions as well as other labour authorities to strive for a national labour code for the post-war period. In a submission to the federal Cabinet in 1944, the Canadian Labour Congress suggested the formulation of peacetime labour legislation that could be used as a model for provincial statutes to embrace industries outside federal jurisdiction.[46] The federal Government now embarked on such a plan and the principles of such legislation were examined at a federal-provincial Conference of Labour Ministers in 1946. These ministers recommended "the adoption as far as practicable of uniform collective bargaining legislation by the provinces and the Dominion." [47] They also recommended that federal authorities and provincial Labour Ministers consult to draft a labour relations bill extending to federal jurisdiction with the understanding that the subsequent provincial labour relations legislation would be patterned on such a bill. After a great deal of controversy and some amendments, the draft bill was enacted in 1948 as the Industrial Relations and Disputes Investigation Act (I.R.D.I. Act).

The new legislation replaced Order in Council P.C. 1003 and repealed the I.D.I. Act of 1907 that had been suspended while the Order in Council was in force. Although the new I.R.D.I. Act contained the basic principles of P.C. 1003,[48] its coverage was much more limited since the Act did not include the wartime industries.[49]

In introducing the draft bill of the I.R.D.I. Act to the Canadian Parliament the Minister of Labour[50] stated: "We have tried to set a pattern which some of the provinces may care to apply knowing that we shall not be moving as rapidly as we should towards the goal of industrial peace in this country if we have widely varying legislation of this nature in the spheres of dominion and provincial operations." [51]

British Columbia and Nova Scotia in 1947, Ontario and Manitoba in 1948, and New Brunswick in 1949 passed new Labour Relations Acts that were to some extent modeled on the draft bill, which became the I.R.D.I. Act in 1948. Quebec,[52] Saskatchewan,[53] Prince Edward Island,[54] and Alberta,[55] did not pattern their certification legislation on the federal model; instead, each of them enacted a somewhat different set of labour relations laws. These provincial laws were initially limited to non-war industries, but in 1947 when Order in Council P.C. 1003 was amended to eliminate coverage of war industries, the provinces recovered their powers over all industries falling within their jurisdiction.

At the 1946 federal-provincial Conference of Ministers of Labour in Ottawa, the hope was expressed of attaining uniform labour relations legislation in Canada; however, this never materialized, but by 1949 all Canadian jurisdictions had statutes containing provisions that promoted collective bargaining and protected the workers' right to organize. Most of these statutes, with the exception of the I.R.D.I Act, have undergone many amendments since their enactment. The amendments of some of the provincial Acts have expanded the discretionary powers of Labour Relations Boards but others have restricted the authority of the Boards. For example, the powers of the Ontario Labour Relations Board[56] with respect to craft certification were increased in 1960, but the powers of the British Columbia Labour Relations Board concerning multi-employer certification were decreased in 1954 and 1961.[57]

## Jurisdiction of Labour Relations Boards

Presently, Canada has eleven Labour Relations Boards: ten provincial and one federal. The jurisdiction of the federal Board extends to industries and enterprises outlined in Section 53 of the I.R.D.I. Act, or to those industries which, according to various Court decisions, now come under the authority of the Board; the jurisdiction of each provincial Board extends to all industries within the province's boundaries, except to those industries under the federal Board's jurisdiction.

The division of jurisdiction between the provincial and federal Board stems from the provisions of the British North America Act of 1867. The powers of the federal Government are outlined in Section 91 of this Act and those of provincial governments in Section 92; however, neither of these Sections mentions labour relations. In effect, the jurisdiction of powers in this area has been determined by a 1925 Privy Council interpretation of these Sections and, consequently, the structure of Canadian labour relations legislation has moved towards the decentralization described.

This jurisdictional division has certainly not contributed towards better industrial relations;[58] especially in companies operating on an interprovincial level and conducting collective bargaining on a centralized multi-plant basis. In cases of conflict, such companies are subjected to different provincial statutes that in most jurisdictions contain compulsory conciliation provisions, despite the fact that industrial relations decisions are made centrally in such firms. In other words, although the unit of decision-making is confined to one location, the present Canadian labour relations law provides compulsory conciliation procedures that 'balkanize' this decision-making process. Some of the provinces circumvent the law with regard to compulsory conciliation; they permit one province to form a Conciliation Board to cover the firm's plants in the other provinces.

Such conciliation arrangements were made in 1946, 1958, 1960, and 1962, between British Columbia and Alberta for the United Mine Workers of America, District 18; the Coal Operators' Association of Western Canada, Calgary, Alta.;

Coleman Collieries Ltd., Coleman, Alta.; Lethbridge Collieries Ltd., Lethbridge, Alta.; Canmore Mines Ltd., Canmore, Alta.; and Crow's Nest Pass Coal Co. Ltd., Fernie, B.C. In these disputes, the Alberta Minister of Labour would appoint a Conciliation Commissioner whose appointment would usually be reconfirmed by the British Columbia Minister of Labour and, in effect, the Commissioner would be authorized to conciliate the dispute on an interprovincial basis, rather than to confine himself to the boundaries of one province.[59] Still, despite such arrangements, the division of jurisdiction will probably contribute to undue delays where a union tries to strike in all the plants of one employer.

## Observations

The examination of Canadian labour relations legislation and policy since the beginning of this century until 1964 indicates that Canada moved forward from a labour relations policy relatively free from government intervention towards a policy of compulsion which was demonstrated in 1944 with the passage of Order in Council P.C. 1003 and then, due to constitutional considerations, continued on a fractionalized basis through ten provincial and one federal Labour Relations Acts.

Until the enactment of Order in Council P.C. 1003, public policy on issues, such as freedom of association, recognition of labour unions, the determination of appropriate bargaining units and collective bargaining, evolved as a result of non-binding recommendations made by Conciliation Boards established under the I.D.I Act. The voluntary aspect of public policy was expected to encourage collaboration and direct negotiations between employers and organized labour representing the employees and, by these means, to further the cause of industrial peace. However, this policy could not cope with the industrial unrest of the times and eventually had to be replaced by the policy of compulsion pronounced in the Order in Council.

The transition of government policy from voluntary principles to compulsion was not sudden; it was rather an evolutionary process that probably began with the enactment of the I.D.I. Act of 1907. The various amendments of the I.D.I. Act over the years, especially during World War II, expanded its jurisdiction to many new industries, and in effect broadened the authority of the federal Government. The authority of the Conciliation Boards provided by the Act was increased by provincial labour legislation, the Order in Council P.C. 2685, and developments in the United States – and, in particular, by the passage of the Wagner Act in 1935. Thus, Government intervention in labour relations increased and eventually resulted in the passage of P.C. 1003 that was a synthesis of the Canadian I.D.I. Act and the Wagner Act of the United States. Order in Council P.C. 1003 provided a new national labour code for Canada, introduced legal compulsion for collective bargaining, and began a new era in Canadian labour relations policy.

# 3

# THE ELIGIBILITY OF EMPLOYEES FOR CERTIFICATION

## Legislation

Canadian labour relations statutes, provincial and federal, stipulate that certain categories of employees are not eligible for certification. These employees can be divided into two main groups: those whose titles are clearly defined in the Acts (e.g., doctors, lawyers, teachers, etc.) and those whose titles are subject to interpretation by Labour Relations Boards (e.g., confidential and managerial staff). While it is relatively easy for a Labour Relations Board to exclude from certification employees with titles that clearly indicate their duties, it is difficult to exclude employees whose titles do not always reflect the duties they perform – for example, employees engaged in either confidential or managerial capacities. The problems encountered by Labour Relations Boards in this area, the principles they apply to solve them, and the significance of their decisions on the process of collective bargaining are examined in the following pages. The legislative provisions governing eligibility of employees for certification and definitions of employees in various jurisdictions are also considered.

In some respects, the various Canadian labour relations statutes are very similar; in others they differ considerably in their definition of employees. The federal I.R.D.I. Act stipulates that an "employee means a person employed to do skilled or unskilled, manual, clerical or technical work." Identical provisions can be found in the Labour Relations Acts of British Columbia,[1] Manitoba,[2] Nova Scotia,[3] New Brunswick,[4] Newfoundland,[5] and Prince Edward Island[6] – all these Acts were modeled on the federal I.R.D.I. Act.

Although the labour relations statutes in these six provinces have a uniform description as to what constitutes an employee, they differ in the definitions of categories of employees to be excluded from coverage under the Acts.

In the labour relations statutes of Ontario,[7] Quebec,[8] Saskatchewan,[9] and Alberta,[10] the definitions of an employee are quite different. The Quebec Labour Relations Code states that an employee means "a person who works for an employer and for remuneration."[11] The Saskatchewan Trade Union Act, which is much broader in coverage, specifies that an "employee means any person in the

employment of an employer."[12] The Ontario and the Alberta labour statutes do not define an employee but only specify who, for the purposes of each Act, is not deemed to be an employee.[13]

Although the labour relations statutes differ in the definition of employees, an examination of the certification practices of Labour Relations Boards did not reveal that the differences had any impact on the characteristics of the emerging certified bargaining units. What seems to be important from the point of view of certification is not who is an employee but who is *not* an employee under the Acts in various jurisdictions. This is the area investigated in this chapter.

Employees in domestic service or agriculture are not considered to be employees under the statutes of Ontario,[14] British Columbia,[15] New Brunswick,[16] and Prince Edward Island;[17] horticulture, hunting and trapping employees are not considered employees under the statutes of Ontario,[18] British Columbia,[19] and New Brunswick.[20] In some provinces, e.g., Ontario[21] and Alberta,[22] policemen and firemen are not considered employees under the statutes and, as a result, cannot be certified. In British Columbia,[23] persons serving an apprenticeship do not come under the coverage of the Labour Relations Act. With the exception of labour legislation in Saskatchewan,[24] professional people are another category of employees who are excluded from the coverage of most Canadian labour relations statutes, but there are some differences among the various statutes as to the extent of exclusions of professional persons. The federal Act as well as Acts in Ontario,[25] British Columbia,[26] Manitoba,[27] Alberta,[28] Nova Scotia,[29] New Brunswick,[30] Newfoundland,[31] and Prince Edward Island,[32] stipulate that the definition of an employee does not include a member of the medical, dental, architectural, engineering, or legal profession, that is qualified to practice under the laws of a province.

Under some provincial statutes other professional employees are also excluded from coverage: for example, teachers and land surveyors are not covered under the Ontario Labour Relations Act;[33] members of the dietetic and teaching professions are excluded by the Manitoba Labour Relations Act;[34] members of the nursing, dietetic, and teaching professions are excluded by the New Brunswick Act;[35] and registered nurses and teachers are excluded under the Prince Edward Island Act.[36]

That certain categories of employees are excluded from coverage by labour relations statutes in some jurisdictions, and not in others, indicates that certification and the right to collective bargaining are not uniform throughout Canada for all categories of employees: while, in some jurisdictions and in particular occupations an employee's rights to collective bargaining may be protected by law, in other jurisdictions the employee would be deprived of this protection.

Managerial and certain confidential employees are another two categories of employees who are excluded from the coverage of most labour relations statutes and, consequently, are not subject to certification; all such Acts in Canada, federal as well as provincial, exclude these employees from their coverage. For example, the federal I.R.D.I. Act stipulates that "a manager or superintendent, or any other

person who, in the opinion of the Board, exercises management function or is employed in a confidential capacity in matters relating to labour relations"[37] is not an employee under the Act. Similar provisions can be found in the Labour Relations Acts of Ontario,[38] British Columbia,[39] Alberta,[40] Nova Scotia,[41] New Brunswick,[42] Newfoundland,[43] and Prince Edward Island.[44] Only the Acts of Manitoba and Saskatchewan differ substantially in their texts concerning the exclusion from coverage of managerial staff.

The Manitoba Labour Relations Act[45] stipulates that "a manager or superintendent, or any other person who, in the opinion of the Board, exercises management functions or is employed in a confidential capacity in matters relating to labour relations" is not an employee under the Act; this Section also authorizes the Labour Board to exclude from the definition of an employee persons who are engaged in "matters of a nature such that it would, in the opinion of the Board, be unfair to the employer for that person to be included in a unit that is appropriate for collective bargaining."

The Saskatchewan Trade Union Act on the subject of managerial employees is quite different to the Manitoba or Quebec Act, or for that matter, any other Canadian labour relations statute. It is the only Act linking managerial functions with the authority to hire or discharge employees. Although, in order to determine a person's managerial status, all other Canadian Labour Relations Boards apply criteria based on whether or not the person has the authority to hire or fire, none of the Boards are directed to do so by legislation, as in Saskatchewan.[46]

Not only do legislative provisions concerning exclusion from certification of confidential and managerial employees differ in text among the jurisdictions, but the Boards' practices with respect to certification of such employees also vary considerably. However, there is no indication that these variations can be related to differences in legislative provisions;[47] more than likely the variations are a function of the Boards' attitudes as to how deeply they should probe into the employee's status and what criteria they should apply when trying to resolve the problem of whether or not an employee is engaged in a confidential or managerial capacity.

## The Antecedents of the Problem of Managerial or Confidential Capacity Functions

The problem of defining a managerial or confidential capacity function is not new; its antecedents can be traced back to 1907 when the I.D.I. Act was enacted. The Conciliation Boards constituted under this Act were frequently faced with the question of supervisory and confidential capacity employees. An early example is the dispute between the Dominion Coal Company and its employees, and the cause of this conflict was the dismissal by the company of a deputy overman, because of his membership in a labour organization. An I.D.I. Board formed to conciliate the dispute upheld the position of the company on the ground "that the deputy overman is in a position of responsibility frequently exercising

authority over a large number of men" and also that "the rule of the company disqualifying him for belonging to any labour union to be a reasonable one."[48]

In a dispute in 1928 between the Quebec Railway, Light, Heat and Power Company Limited and certain of its employees, a Concilition Board recommended exclusion from a collective agreement, to be negotiated, of "employees considered as occupying confidential positions."[49] A similar stand was taken by a Concilation Board in a dispute between Dominion Atlantic Railway and its clerks and freight handlers in 1931.[50]

## The Problems of Managerial or Confidential Capacity Functions Confronting Labour Relations Boards

The problems confronting Labour Relations Boards in determining the functions of management, or those of a confidential capacity, are difficult and also very important from the point of view of collective bargaining. For instance, the inclusion of employees, who are basically management, to a bargaining unit could adversely affect the position of trade union members in bargaining. This could also weaken the management by causing a lack of persons necessary to bargain effectively with the union or to administer the provisions of a collective agreement.

Another factor to be considered with regard to these employees is the effect of their exclusion on certification. In order to be certified as a bargaining agency for a particular bargaining unit, a union must prove to a Board that it has the support of the majority of employees in the unit. To ensure this majority support in the unit, the union might try to include groups of employees who are backing the union and exclude employees who object to the union or whose support is questionable. The employer, on the other hand, to prevent the union from gaining bargaining rights, might attempt the opposite course of action. In this power play between union and management, it is up to the Board to decide, by applying arbitrary standards, those who should be included or excluded from the unit.

Another problem confronting Boards is the wide disparity in personnel organizational structures among employers; in firms of similar size in an industry, there are employees who do similar work but who have different titles, privileges and responsibilities. The whole certification issue is even more complex when the varying sizes of companies, and the effect of size on the extent of levels of supervision, are considered. For example, in the smaller companies, an individual who performs a similar job as his counterpart in a larger company might have more duties and responsibilities and might be eligible for exclusion, while the other might not.

The most serious problem confronting a Labour Relations Board in establishing criteria — with regard to the exclusion of certain classifications of employees from the bargaining unit — is the prerogative of management to form and revise at will their personnel structure, and to distribute the managerial, supervisory and con-

fidential functions. Since management has this right, some employers feel that they should be the only ones to decide on exclusions from bargaining units; but if such a right were granted, it might lead to deliberate manipulations of the number of employees in a proposed bargaining unit to affect adversely the union's ability to obtain the required support for certification.

## Court Definitions of What Constitutes Managerial or Confidential Duties

An example of what legally constitutes a supervisory or confidential capacity function is to be seen in the case of Canadian General Electric vs. the Ontario Labour Relations Board that came before the Supreme Court of Ontario;[51] Mr. Justice D. C. Wells presided.

The difficulties of defining the issue in legal language are illustrated in the reasons given by the Judge in support of his judgment in the Canadian General Electric case.[52] He said that he tried to determine as best he could:

> "what the legislature meant when it exempted employees exercising managerial functions and employees employed in a confidential capacity in matters relating to labour relations from the Board's powers as to employees [and he went on to say that] it is obvious that 'managerial' means something pertaining to or characteristic of a manager and it is equally obvious that the word 'function' is defined as the action of performing, or as the special kind of activity proper to anything, the mode of action by which it fulfills its purpose. The work 'manages' is said to be equivalent to conducting or carrying on a business or undertaking or an operation, to conduct affairs. It is also said to be equivalent to controlling or directing the affairs of a household, institution, state, or as the taking charge of or to attending to a matter. It apparently includes the action or manner of conducting affairs of administering and directing or controlling any matter. Therefore, the essential meaning of the word is to control and direct and that must obviously not only include administration but direction of planning for any particular enterprise. That obviously involves not only planning but the collecting and collating of information from which plans may be evolved and the very nice question is as to where the line should be drawn between those exercising these functions and those who are simply collecting information based on direction from the management for its purposes. [Mr. Justice Wells also stated that] confidential capacity in matters relating to labour relations, is obviously much easier of definition, and, largely, the words speak for themselves. The confidential capacity is obviously one relating to the employer's affairs, and the matters dealt with by such employees must obviously affect the working conditions and wages or status of other employees in relation to their employment and work. They are confidential from their nature because it is not for the employees to publish, but for those managing the affairs of the concern in question."

With respect to this issue Judge Wells adopted the remarks of Mr. Justice Kellock (in his dissenting opinion in the Labour Relations Board (B.C.) and Attorney-General for the Province of British Columbia vs. Canada Safeway Limited) who said that:

> "The word 'confidential' as it is used in the statute has the sense of 'intrusted' with the confidence of another or with his secret affairs or purposes.[53] [Mr. Justice Kellock also stated that] The difference between a person employed in a confidential capacity and one not so employed is that, in the former case, for reasons, it may be, of convenience or necessity on the part of the employer in

> the conduct of his business or affairs, the employee is put in possession of matter which the employer regards, from his standpoint, as secret and private. In the case of a person engaged in business on a large scale, matters which are private or secret from his standpoint must of necessity be disclosed to varying numbers of employees, depending upon the volume and scope of the affairs in question. This necessity arises from the purely physical consideration of the employer being unable to keep these matters to himself, if his business or affairs are to be properly conducted."

## Criteria Applied by Labour Relations Boards to Determine Confidential or Managerial Duties

To determine, for each bargaining unit, either the exclusion or inclusion of employees who are considered to be engaged in confidential, managerial or supervisory work, the Labour Relation Boards have evolved sets of criteria which vary considerably among the jurisdictions; the most elaborate have been used by the federal, Ontario, and British Columbia Labour Relations Boards.

The main criterion for certification applied by all Boards, when dealing with the issue of managerial employees, is based on the authority of these employees to hire or fire. In addition, other criteria are also issued by the Canada Labour Relations Board, and the Boards of Ontario and British Columbia, to resolve different problems arising in connection with certification of these employees.[54] However, even these sets of criteria are not always sufficient for the solution of every case. There are instances where, in the final analysis, the Boards can only rely on their past experience to settle an issue.

The main criteria for certification of managerial employees, as applied by the Canada Labour Relations Board,[55] are listed here; similar standards are employed by the Labour Relations Boards of British Columbia and Ontario,[56] as indicated. The C.L.R.B. attempts to find out what are the duties of employees whose exclusion is sought from certification, and thus to determine whether the responsibilities involved warrant such exclusion:

1. Has the employee the right effectively to recommend hiring or firing so that his recommendations are implemented, and has he the right to give time off? (This is also applied by O.L.R.B.)
2. The frequency of exercising duties and responsibilities; this is especially significant in industries with seasonally fluctuating employment and where supervisors are transferred into non-supervisory positions in off-season months.
3. The percentage of working time given to managerial, supervisory and confidential duties; whereas full-time supervisors are always excluded from certification, part-time supervisors might sometimes be included.
4. The importance of a position in terms of conditions of employment and special privileges, as distinguished from the rest of employees, and the size of salary in relation to other people in the unit. (Attention to this is also given by B.C.L.R.B.)

5. Community of interest between managerial or supervisory staff and employees supervised.
6. The types of management functions performed by personnel to be excluded from the units are also considered; for example, C.L.R.B. tries to determine whether these functions include participation in collective bargaining or the processing of grievances. (A similar criterion is employed by the O.L.R.B. and the B.C.L.R.B.)
7. The C.L.R.B. (as well as the O.L.R.B.) try to establish whether management authority is exercised with respect to personnel or equipment; in the case of equipment supervision C.L.R.B. might refuse to exclude the employees concerned.
8. The C.L.R.B. also inquires about the ratio of supervisors to employees that are supervised; if it is too high and there are many layers of supervision, some of the supervisory people might not be eligible for exclusion.

The C.L.R.B. and O.L.R.B. do not rely on official titles in order to decide whether a person performs a managerial function, because of variations of meaning between titles from company to company. For instance, a foreman in one company might be hiring and firing employees whereas, in another company, he might be merely in charge of boxes or machines without any managerial responsibilities attached to his position. In some companies, such as General Motors, many foremen are 'reduced to the ranks' in time of lay-offs; then, new supervisory positions emerge at times of increased business activity. As a general precaution the Ontario Labour Relations Board excluded foremen from the bargaining units unless challenged.[57] In that event, the O.L.R.B. dispatches an examiner to investigate the foreman's duties.[58] In contrast with the current practice of the O.L.R.B., the C.L.R.B. excludes foremen from certification only when they perform duties of a predominently or wholly supervisory nature, but working foremen are considered eligible for inclusion. There are cases of certification of large units where the C.L.R.B. includes in the same unit some categories of foremen but excludes others as the Board bases its decisions on the data or evidence concerning the duties and responsibilities of each employee.[59]

Another factor that is evaluated by the C.L.R.B. is the relationship of the positions in question to similar categories in established units in similar firms or even in other industries. The Board takes into consideration the pattern of collective bargaining for such employees in the industry, and also the employers' policies with respect to allocations of duties and responsibilities. For example, if an employer distributes indiscriminately confidential typing material to all employees of a steno pool, the Board would not exclude the pool as a whole. In such cases the onus would be on the employer to select from the pool a few employees who would be responsible for typing confidential data. With regard to the exclusion of employees in confidential capacities, the Board takes into account the confidential relationship of such employees to persons in managerial or supervisory

capacities or to the business as a whole: for example, secretaries of labour relations or operating executives, or personnel in industrial relations departments.

In order to apply some of these criteria, the C.L.R.B. needs information. The Board has standard forms that have to be completed by the industrial relations officers investigating cases where the inclusions of supervisory, managerial or confidential capacity employees are issues.[60] Although the completed forms provide most of the data required by the C.L.R.B., in some instances, especially in the case of a deadlock within the Board, more information is sought before a decision is reached and the C.L.R.B. might order a hearing so that the Board or an examiner could question the parties with respect to the duties and responsibilities of the positions in question. The Board might also consider sending an investigating officer with a questionnaire to the employees concerned. In some instances, the Board might even have an investigating officer observe employees in job settings to find out how they actually carry out duties and responsibilities. Thus the questionnaires,[61] and the additional steps used in certain difficult instances, provide the C.L.R.B. with sufficient information to decide whether employees are ineligible for inclusion in bargaining units on the grounds of managerial, supervisory or confidential capacity functions.

The C.L.R.B. exercises a flexible policy with regard to excluding, from the description of certified bargaining units, employees who do not fall within the definition of 'employee' under the I.R.D.I. Act. In Ontario, and many other provinces, each certificate that is granted lists the categories of employees who are excluded from the unit, but the C.L.R.B. is not so explicit as this in its description of certified units and is mainly guided by the wording of the applications. For example, in cases of single well-defined categories of employees such as stationary engineers, the certificate would not make any reference to the exclusion of other classifications of employees, regardless of whether they are eligible or not under the I.R.D.I. Act. However, in other certifications covering many classifications of employees, and where the petition for certification excludes managers and supervisors, for purposes of clarity the actual certificate might exclude them also. There are also cases where the application for certification has no reference to the exclusion of personnel not qualified for certification. In such instances, unless the employer or the investigating officer mentions these personnel, they are not described as 'excluded' in the certificate.

As with the C.L.R.B., most Boards, with the exception of the Ontario Board, tend to include nearly everybody in the category of employees; for example, the B.C.L.R.B., especially in cases where the union has a clear majority, is reluctant to make any rulings regarding employees that are exercising managerial functions or are engaged in confidential capacities, and would rather leave the issue for the parties to settle. In other words, the certification order would not state who are the employees excluded from the certified bargaining unit. In instances where, following certification, the parties cannot settle the issue, they can write to the B.C.L.R.B. for a ruling on the subject. In cases where the union majority is very slim and where inclusion or exclusion of employees in a managerial or confidential

capacity could affect the certification outcome – in order to determine the extent of union support – the B.C.L.R.B. would rule on an employee's eligibility for certification or exclusion; however, the certification order would not specify the exclusions.[62] In cases where there is disagreement between the parties on whether an employee fulfills managerial functions, the B.C.I.R.B. would send a special officer with a questionnaire;[63] the Board would then settle the issue on the basis of the answers obtained.

The most common B.C.L.R. certification order would read "all employees employed at" and would not make any reference to the exclusion of managerial or confidential staff; an example is the certification order issued to United Packinghouse, Food and Allied Workers, Local 341, as a bargaining agent for "all employees employed at Dale Food Products Limited at 331 No. 3 Road, Richmond, except office staff." [64]

## Observations

The Canadian Labour Relations Boards apply a variety of different standards to define who is a person employed in a managerial capacity; and these variations are hard to justify when the effects – which these practices have on labour's right to collective bargaining – and the importance of this issue, are considered.

It is important from the standpoint of industrial relations to establish criteria that will determine when an employee is performing a managerial function. This is a complex problem and it might be advisable to have an Inter-Board Research Committee which, among other duties, could investigate the criteria used and choose the best features. The Committee might then recommend suitable criteria to be applied uniformly across Canada by all Labour Relations Boards. This would seem more feasible than to have the individual Labour Relations Boards go through processes of trial and error to establish and apply appropriate criteria.

# 4

## ASSESSMENTS AND CRITERIA USED IN DETERMINING BARGAINING UNITS

The certification process transferred the functions of determining bargaining units from the bargaining parties to the Labour Relations Boards, and their decisions affect not only the initial unit within which bargaining can take place, but the evolution of the bargaining structure, the state of labour relations, and the content of labour agreements — i.e., with respect to uniformity and level of wages, hours of work, pensions, and other working conditions. This transfer, then, affected the characteristics of bargaining units and, therefore, the content of collective agreements.

The constitution of an appropriate bargaining unit determined by a Labour Relations Board is not necessarily that which would have emerged if the parties themselves were free to determine the unit through the process of collective bargaining and, possibly, strike actions. This statement does not imply that a unit established by the parties would be more appropriate than a unit determined by a Board, or that the determination of bargaining units without compulsion, i.e., through certification, is better — only the possible difference is emphasized.

### Significance of the Boards' Decisions[1]

The Boards, by determining the composition, type, and scope of bargaining units which are appropriate for certification are, to some extent, making decisions regarding the unions' ability to gain certification. To obtain certification a union requires a certain percentage of support in the bargaining unit and this percentage, in turn, can be linked to the size of the bargaining unit that is determined by the Board.

There are cases where the type of bargaining units determined by the Boards can have serious consequences on the survival of one labour organization in competition with another, especially if a Board regards an industrial union more favourably than a craft union. In such instances, without the existence of certification machinery and if freedom of action — including the right to strike over recognition — were left to the craft unions, their relative position would be strengthened. Decisions made by the Labour Relations Boards in determining

bargaining units can, and do, weaken craft unions, and contribute to the absorption of craft employees in large industrial units. Again, this is not to be interpreted as a criticism of the Boards' actions, but as an indication of the significant role that the Boards occupy in establishing union strength through the determination of bargaining units.

The practices of the Boards with respect to the certification of craft and industrial unions can have an impact on the stability and flexibility of collective bargaining. When a Board favours a craft union over an industrial union, it is *in effect* deciding that bargaining should be conducted on a smaller scale. This contributes to the 'rigidity' of bargaining units.[2]

The decisions made by the Boards are also of great significance to management, for it is important to them whether a single-location or a multi-location unit is to be certified, or whether or not the employees of a single plant are to be fragmented among a number of competing unions; such decisions affect industrial relations and collective bargaining settlements.

## Authority of Labour Relations Boards

By legislation the Boards are vested with broad discretionary powers to determine the appropriateness of bargaining units for certification purposes and they can decide whether or not an appropriate unit should be of any of the following types: craft, guard, office, part-time seasonal, plant, or multi-plant.

The Boards' powers, however, are limited in certain areas. For instance, the jurisdictions of the provincial Boards are confined to provincial boundaries; and that of the C.L.R.B. to industries covered by the I.R.D.I. Act. Interprovincial multi-plant units, therefore, even if they were considered appropriate for certification, could not be certified by the provincial Boards.

Other limitations of the Boards' powers concern the categories of employees eligible for certification (for there are certain employees' classifications, which vary among jurisdictions, that the Boards are not permitted to certify) and also the certification of multi-employer, multi-union, and craft units. Some Boards (e.g., Ontario) are also governed by specific provisions with respect to the certification of guards and other Boards (e.g., Nova Scotia and Prince Edward Island) by legislation as to the criteria that they can apply in determining the appropriateness of bargaining units. Nevertheless, it is true that the Boards have relatively little legislative guidance as to what criteria to apply, and that they possess broad discretionary powers to determine the appropriateness of bargaining units within their jurisdictions.

## Criteria for Determining Bargaining Units

Most Boards use a series of similar criteria[3] to determine the appropriateness of bargaining units for certification purposes, but this does not mean that there are no variations in certification practices among the jurisdictions. Frequently, what

is considered an appropriate bargaining unit – or an appropriate certification practice – by one Board, is not necessarily so in the opinion of another Board.

In deciding on the appropriateness of bargaining units, the Boards consider:

1. the purpose and interpretation of legislation;
2. the community of interest of the employees to be included in the bargaining unit;
3. the history and pattern of collective bargaining in the industry, in the firm, or in the bargaining unit in question;
4. the desires of employees, unions, and management;
5. agreement among the parties as to the appropriateness of the bargaining unit;
6. any employers' organizations;
7. any prior decisions, on policies, or principles, of the Board that could be applied to the situation.

### *Sources of Criteria*

The criteria presently applied by the Boards are not the result of research as, in most instances, the Boards do not carry out research. The major sources of criteria for the Boards are decisions made by other Canadian Labour Relations Boards and by the United States National Labor Relations Board and, also, decisions made by the courts that concern the appropriateness of bargaining units.

In some judgments certain principles may emerge to meet particular situations; e.g., a Board or a court may have issued a statement on the appropriateness of a bargaining unit – possibly referring to an unusual situation – and such a statement might be used to justify a particular decision instead of relying on the result of some research. Such statements or opinions are the source of many criteria as, probably, legal precedents strongly influence the judgments of the Boards – even though the legislation in some jurisdictions stipulates that they do not have to rely on precedents and can vary their decisions from one case to another.

As already mentioned, the decisions of the United States National Labor Relations Board are another source of certification criteria for Canadian Boards. Their published decisions were present in the offices of most Canadian Labour Relations Board executives visited by the writer and, it is assumed, were frequently consulted.

### *Assessment of the Boards' Concepts*

Generally speaking, the Boards are conservative in their use of criteria for determining bargaining units, and it is obvious from the nature of the criteria used that the Boards are much preoccupied with the status quo.

Much can be said in favour of the attitudes presently held by the Boards: the possibilities of costly mistakes are decreased; the attitudes may contribute to better

industrial relations in the short run; the Boards are not subjected to excessive criticisms; the attitudes do not contribute to serious readjustments in the industrial relations scene but permit the parties, by *mutual consent*, to merge the smaller certified unit into larger groups for bargaining purposes; nevertheless, there is a certain element of danger in holding such attitudes. The bargaining unit is not a static concept in a static environment. The economy and industrial relations are continually changing; new requirements are emerging; and too much deference to tradition, by the Boards, may do more harm than good in the long run.

The Boards are reluctant to assume a pioneering role in establishing new types of bargaining structures; they will not concern themselves with the appropriateness of bargaining units for negotiating purposes, even if the industrial scene in terms of technological change might warrant a re-evaluation of traditional processes. This reluctance of the Boards to scrutinize their certification practices critically — to reveal, perhaps, that what was an appropriate unit yesterday is now obsolete — can probably be related to the role played by the Boards with respect to certification. They assume that their function is *not* to establish a final structure for collective bargaining but, instead, to act as a catalyst for collective bargaining by requiring the employers to negotiate with the unions; thus they eliminate disputes over union recognition. The Boards try to accomplish this by first establishing bargaining units for single plants and, from these, the bargaining parties by mutual consent can then build up larger structures. However, this raises some questions: Can the role played by the Boards be viewed only as a catalyst for collective bargaining, or is it something more? Are the actions of the Boards influencing the emerging bargaining structure? If so, should the Boards assume a greater responsibility and try to adapt their certification practices to the dynamics of the industrial relations scene?

The role played by the Boards is, in reality, much more than that of a catalyst for collective bargaining. Some Boards may claim that the certified units, which they establish, are not obstacles to the parties for the formation of broader units of, say, a number of plants or employees. The Boards may support their arguments with evidence that many *actual* multi-plant and multi-employer bargaining units consist of a number of *certified* single-plant bargaining units; however, the validity of this evidence is open to question. We know only of instances where the parties were willing to broaden the unit by mutual consent but *not* of cases where they were reluctant to do this despite the fact that there might have been a sufficient community of interest among the employees.

The freedom of parties to change the bargaining structure, however, is restricted due to the divisions of powers between federal and provincial jurisdictions; and this, together with whether a Board establishes a number of craft units or an industrial unit in a particular plant, has a considerable effect on the evolution of the bargaining structure. Coleman has stated that:

> "Collective bargaining would surely be less stable and less flexible if big industrial plants were fragmented into trade groups each of which would surely have built protective walls about itself with little regard to the impact of changing technology."[4]

and, to some extent, the Boards have recognized this by becoming more wary of granting craft certifications. Consequently, until the bargaining parties have, for purposes of collective bargaining, the freedom to modify the certified bargaining unit, it seems that the Labour Relations Boards should pay greater attention to the impact of certification on the bargaining structure – and this may, at times mean the certification of multi-plant or multi-employer units.

As the Boards, through the type of units certified, influence the evolution of bargaining structures, it seems proper that they should accept a greater responsibility for their creations. They should view their certification role, not only in terms of being a catalyst for collective bargaining but, also, in terms of creating bargaining units that would be in step with the developments and technological changes in the economy.

This discussion does not imply that Boards are static in their certification practices. The Ontario Board has revised its concepts as to what constitutes an appropriate bargaining unit in the construction industry, changes have also been made in British Columbia with regard to this industry, and some Boards have amended their practices with respect to craft and multi-employer certifications. But these changes resulted from external pressures or problems confronting the Boards and not because the Boards tried to re-evaluate their role in the determination of bargaining units nor because they considered the impact of their decisions on the actual bargaining structure.

### *Application of Criteria*

The basic criteria used for determining bargaining units do not differ much between the various jurisdictions; however, the importance attached to a particular criterion may differ with each jurisdiction or, even, from case to case in one jurisdiction.

The one criterion most favoured by the Boards is the concept of community of interest. All Boards consider that, for a unit to be appropriate for certification, the employees should have a mutuality of interest with respect to wages, hours, working conditions, and other collective bargaining objects, but this interpretation has, in fact, been made in a very narrow context. The Boards assume that it should only pertain to similar classifications of employees of one employer in one location, but there are times when the concept of community of interest could include employees of more than one employer or employees of one employer that are located at different plants in different cities. The concept of community of interest could be geared to the administrative structure of an employer or to a traditional method of bargaining that may cover various classification of employees.

In Canada, most Boards are more conservative in their interpretation of the concept of community of interests than is the United States National Labor Relations Board, which has recognized that a community of interest can exist among employees located in different plants of one employer. In the case of C. A. Lund Co.,[5] for example, the United States Board expressed the view that:

> "If Lund may deal with the employees of the two plants as separate units, it is believed that collective bargaining would be a farce and that Lund, because of his hostility to the Union, would evade the purpose and intent of the law by transferring business from one plant to the other as his interest dictated according to the unit with which he could force competition between the two groups of his employees to their detriment and his gain."

Although this example may illustrate an extreme case, the possibility always exists that an employer may transfer production from one plant to another when one firm operates more than one plant manufacturing the same product.

The Boards also use a variety of other criteria, which serve as guidelines for their decisions in certification cases, but this does not mean that the certification decisions depend upon the mechanical application of these criteria. There is scope for value judgments in their application in each case.

Another factor influencing the Boards' decisions on the appropriateness of bargaining units is the nature of the industry under consideration. A Board might consider certain craft employees eligible for separate certification in one industry but not in another. A case in point is the willingness of the British Columbia Board to certify stationary engineers in separate units in hospitals but not in the pulp and paper industry.

The characteristics of certified bargaining units, under the various jurisdictions, differ as to type and composition. Some Boards are willing to carve out craft units from certified industrial units, but other Boards are reluctant to do this, or are even opposed to it. In some jurisdictions – as a matter of policy – office employees are always separated from non-office employees while, in others, the Boards have no definite policy on this. Again, some Boards do not distinguish between regular (full-time) employees and seasonal and part-time employees, or between guards and non-guards, but other Boards are willing to separate such categories of employees because of requests in certification applications or as a matter of policy. Then there are also Boards that approve, upon request, of certifications of multi-plant units, while others that do not, and some Boards still approve of project bargaining units in the construction industry, while others oppose this and only approve of area-wide or province-wide bargaining units.

Although all these variations may, to some extent, be justified by differences in the industrial-relation environments that the Boards operate in, the policies of some Boards on these issues could be re-examined and probably modified.

### *Technological Change and Criteria*

The criteria that are now being applied by the Boards may have been sufficient when the process of certification was initiated, but technological changes are taking place in the economy – changes which have important repercussions on industrial relations and, specifically, on bargaining units – that will soon make these criteria inadequate. Automation and technological changes will make many occupations obsolete. New occupations will arise, necessitating the transfer of employees from one department to another, or from one plant to another, and such

transfers will, in turn, cause problems associated with seniority. Solutions to problems such as these will be easier to find if bargaining takes place within a broad framework, possibly on a company-wide or industry-wide basis. This is an area in which the Boards, by displaying some initiative in updating their certification criteria, could make important contributions to labour relations. Coleman has stated that:

> "The best way might be for the Government to lean toward the largest practicable units in future determinations, and to encourage the parties to established relationships to broaden their seniority units beyond single departments or plants." [6]

By certifying more multi-plant and multi-employer bargaining units of large size, although such action has certain shortcomings that are discussed in Part II, Chapters 5 and 6, the Boards could encourage and contribute to greater labour mobility. The larger the bargaining unit, the greater the possibilities for employees to move from job to job within the unit without losing their seniority rights. Large units would also be appropriate from the point of view of negotiations of pension programs, and for dealing with issues such as retraining or guaranteed annual wages. Large units would also be in step with the trend towards centralization of administrative functions by union and management; this trend seems also to be closely related to the greater utilization of computers in industry.

## The Changing Nature of the Bargaining Unit

The bargaining unit that emerges under the certification process is usually a single-plant unit; however, the unit engaged in collective bargaining can be a multi-plant or multi-employer bargaining unit that occurs as the result of voluntary arrangements among bargaining parties. Such arrangements are usually encouraged by union policy, standard contract clauses, uniform contract termination dates, the organizational structure of multi-plant employers, or employer policy.

Gitlow wrote that:

> "Union policy has been an important influence in widening the area of collective bargaining beyond the plant or shop. It has almost always been favorable to extending the area of bargaining, and the initiative in this respect has generally come from the union side rather than from that of the employers." [7]

The reason for such union policy can be related to union goals of standardizing rates and of providing its members with "equal pay for equal work."[8]

Standard contract clauses in labour agreements decrease the differences between individual contracts. Gitlow expressed the opinion that:

> "they increase the area of uniformity, facilitating a shift from atomistic to multi-plant and multi-employer bargaining." [9]

And the standard contract clauses now appear with greater frequency in labour agreements than in the past. It is feasible that increasing centralization of legal matters and professional research in trade unions at the international level has facilitated "joint action upon the remaining contract provisions." [10]

Uniform contract termination dates are another factor encouraging the broadening of bargaining units. When a number of plants in one industry are confronted with simultaneous bargaining with one union, they might be better off by combining resources and bargaining jointly "otherwise the union is in an ideal position to use one plant's concession against other plants." [11] Under single-plant bargaining "the union may collect the concessions offered by each, total them, and demand the aggregate from each." [12]

The organizational structure of a multi-plant employer, whether he operates independent or interdependent plants, can also be an important element in the broadening of bargaining units. Craig wrote that:

> "This can be very important in determining the relative bargaining power of the parties, particularly where bargaining is conducted on a plant-by-plant basis. For example, if each plant in a multi-plant operation is an autonomous unit, then there would be greater pressure on the part of the union to bargain on a company-wide basis since this would increase its bargaining power. This is one of the major factors which accounts for company-wide bargaining in the 'big three' of the packinghouse industry. The union believes that striking in one plant of any of the 'big three' would not bring enough pressure on the company to result in an early settlement. In contrast to this situation, if each plant in a multi-plant company formed part of an integrated whole, then the union would not likely be as prone to seek company-wide bargaining. By striking one of the major feeder plants, it could bring great economic pressure on the employer." [13]

In some industries employers seek the broadening of bargaining units because of certain advantages. For example, in the clothing industry, where the unions are strong and employers many, though small, joint multi-employer negotiations equalize the strength of the parties. This "places employers on an equal competitive footing as regards wage rates and other items in labour cost." [14]
Another benefit to employers resulting from joint negotiations is the utilization of the agreement with the unions:

> "to police price-fixing and other monopolistic practices within the industry. Union and employers, instead of fighting each other, can unite with mutual benefit to levy tribute from consumers." [15]

The broadening of a bargaining unit means that the *actual* bargaining unit may contain a number of *certified* bargaining units. This difference is of special significance where bargaining is conducted at an interprovincial level on a multi-plant or multi-employer basis – in other words, where actual bargaining units consisting of a number of certified bargaining units come under the jurisdiction of different Labour Relations Boards.

In such interprovincial units, if collective bargaining breaks down, the parties are subjected to compulsory conciliation, and this can cause serious problems. Legally, the conciliation unit is the certified bargaining unit. This means that in situations where negotiations are centralized on an interprovincial basis, separate conciliation machinery has to be provided at the level of the certified bargaining unit. When confronted with such conditions, Labour Relations Boards often

circumvent the legal provisions by delegating the responsibility for appointing conciliation machinery to one province. Nevertheless, when the compulsory conciliation does not bring about a settlement, the strike issue has to be settled at the level of the *certified*, rather than the *actual*, bargaining unit. To be able to call a strike, the union has to meet the legal requirements of each jurisdiction; in most instances, this means that the union cannot strike simultaneously in all locations covered by the *actual* bargaining unit. This, in practice, weakens the position of the union in collective bargaining, and reduces the effectiveness of a strike as a stimulant to the settlement of labour disputes.

## Observations

It seems that most Boards wait until events overtake them instead of anticipating the shape of things to come and, thereby, trying to change their policies before difficulties multiply. The blame for this lack of foresight, however, cannot be aimed entirely at the Boards. They are so busy with routine work that they have no time for anything else.

What seems to be missing in the Canadian set-up, if we insist on eleven independent Labour Relations Boards, is a sort of *interprovincial research committee*. Such a committee could investigate the practices of the various Boards on a continuing basis as well as take account of new developments in industries and unions, and could thus advise the Boards on any changes that they should consider. This would do away with the Boards' costly method of individual learning by trial and error.

An interprovincial research committee could also be aided by the establishment of research departments in each of the Labour Relations Boards. At present, not one of the Boards – except, possibly, the Ontario Board which has a very limited research department – has any research facilities at its disposal.

There are other issues, too. One is the question of multi-employer certification, which could possibly be answered by legislative amendments that give the Boards broader discretionary powers. Another is the issue of the limited jurisdictions of the Boards: limiting the jurisdictions of the provincial Boards to industries within provincial boundaries, and that of the federal Board to industries under the legislative authority of the Parliament of Canada, may not be the best nor most logical method for dealing with industrial relations problems of companies operating plants in more than one province. This is especially so where these companies are conducting collective bargaining on an interprovincial multi-plant basis and where these companies are still subjected to the authority of different Labour Relations Boards with differing attitudes and philosophies. Such jurisdictional balkanization does not contribute to better industrial relations in Canada.

One way out of the divided jurisdictions would probably be to subject companies operating interprovincially to a sort of centralized industrial relations

authority. The provinces could possibly form an *interprovincial central Board* which could assume jurisdiction over such companies. It seems that a central Board would be better equipped to deal with industrial relations problems of interprovincial companies than the number of individual Boards under whose jurisdictions these companies now are. In reality, however, it may not necessarily be possible to implement the concept of a central Board. In the final analysis the creation of such a Board would depend more on political considerations than on the recommendations of students of industrial relations and economics.

# PART II

# THE CERTIFICATION OF BARGAINING UNITS

# 1

## CRAFT BARGAINING UNITS

In the conflict over bargaining rights between craft and industrial unions, Labour Relations Boards play a vital role in deciding on the appropriateness of bargaining units. The Boards can actually "affect the survival of a union in competition with rival organizations;" [1] they may rule in favour of an industrial unit rather than a craft unit – thus submerging the craft employees in a larger industrial group – or a craft unit rather than an industrial unit – thus depriving an industrial unit of some of the strategic crafts that possibly could strengthen the unit in bargaining.

When dealing with crafts or other minority groups the Boards are confronted with the basic issue of deciding whether such groups should have the right to form separate entities and, as bargaining agents, choose unions. Superficially, it may seem that such a right would increase the freedom of employees to control their own destiny, however: "Increased freedom for occupational minorities . . . may mean encroachment on the right of the majority to have a single union for the plant if they desire it." [2]

### Craft Certification Provisions

Of the eleven labour relations statutes in existence in Canada, seven have specific provisions governing craft certifications and, in effect, accord a distinct status to organized craft-union groups and acknowledge as a right their separate bargaining interests from other groups of employees.[3]

Of the seven statutes, the craft provisions are all but identical in five while they are quite different in the other two; the five are the Federal Industrial Relations and Disputes Investigation Act,[4] and the Acts of British Columbia,[5] Nova Scotia,[6] New Brunswick,[7] and Newfoundland.[8] The craft provisions of these Acts stipulate that:

> "where a group of employees of an employer belong to a craft or a group exercising technical skills, by reason of which they are distinguishable from the employees as a whole and the majority of the group are members of one trade union pertaining to such craft or other skills, the trade union may apply to

> the Board and shall be entitled to be certified as the bargaining agent of the employees in the group if the group is otherwise appropriate as a unit for collective bargaining."

The craft provisions in the Acts of Ontario and Manitoba are quite different from the rest as well as being different from each other. The Ontario Labour Relations Act stipulates that:

> "Any group of employees who exercise technical skills or who are members of a craft by reason of which they are distinguishable from the other employees and commonly bargain separately and apart from other employees through a trade union that according to established trade union practice pertains to such skills or craft shall be deemed by the Board to be a unit appropriate for collective bargaining for such skills or craft, and the Board may include in such unit persons who according to established trade union practice are commonly associated in their work and bargaining with such group, but the Board shall not be required to apply this subsection where the group of employees is included in a bargaining unit represented by another bargaining agent at the time the application is made." [9]

Craft Section 8[10] in the Manitoba Labour Relations Act stipulates that:

> "where a group of employees of an employer belong to a craft or group exercising technical skills, by reason of which they are distinguishable from the employees as a whole and the majority of the group are members of one trade union pertaining to the craft or the other skills, the trade union may apply to the Board subject to Section 7,[11] and if, in the opinion of the Board, (a) the group is otherwise appropriate as a unit for collective bargaining; and (b) the circumstances warrant the separation of the group from the employees as a whole; the trade union is entitled to be certified as the bargaining agent of the employees in the group." [12]

When first enacted in Manitoba, Section 8 was identical in wording to the provision governing craft certification in the Industrial Relations and Disputes Investigation Act. In 1957, however, the Section was amended and now provides the Board with more discretionary powers for craft certification.

The statutes of Quebec, Alberta, Saskatchewan and Prince Edward Island have no specific provisions governing craft certifications.

Although there are considerable differences in craft certification provisions among various jurisdictions, all the Labour Relations Boards in Canada (with the exception of the Prince Edward Island Board that does not certify craft units)[13] still face the same basic issues: what constitutes a craft eligible for separate certification and whether or not they should, upon request, carve bona fide craft groups out of existing certified industrial bargaining units. When confronted with these issues, the practices of the different Boards vary considerably. While some of the variations are due partly to legislative provisions giving broader discretionary powers in craft certification to certain Boards, in other cases it is also the result of deliberate policies by the Boards. There are instances where two Labour Relations Boards, governed by identical legislative craft provisions, still pursue different craft certification practices or, governed by different craft provisions, follow similar practices.

## Criteria Applied by Labour Relations Boards to Determine the Eligibility of a Craft for Separate Certification

### *The Ontario Labour Relations Board*

In most jurisdictions *with craft provisions in the labour relations statutes*, the Boards are provided with discretionary powers to determine whether a craft is eligible for certification, the exception being the Ontario Labour Relations Act.

The Ontario Act includes a stipulation that the Board, in determining the eligibility of a craft for certification, has to be guided by "established trade union practice . . . pertaining to such skills or craft."[14] This provision implies that only those craft units, for which bargaining has been customary, have a right to certification. "In other words, the law merely respects tradition."[15] The only way, under the existing Ontario law, in which an emerging craft could gain certification would be by obtaining "voluntary recognition from employees to the point where this was the customary way to bargain."[16]

Voluntary recognition is "rarely granted by employers . . . any trade union which depended upon it to establish a practice would be attempting the impossible."[17] This statement was made by Professor Jacob Finkelman,[18] Chairman of the Ontario Labour Relations Board, who also expressed the view that if the Board desired to interpret Section 6(2) of the O.L.R.A. literally, it would deny certification to any crafts without an established history of collective bargaining. In practice, however, there are instances where the Board has given quite a liberal interpretation to this Section and, in order to justify certification of a craft without an established bargaining practice in Ontario, has relied on craft bargaining practices in the United States and Canadian provinces outside Ontario.[19] However, because of the broader consideration of industrial relations, in most instances the O.L.R.B. has been very reluctant to attach a liberal meaning to this Section. Usually, the range of crafts that the O.L.R.B. views as appropriate for certification is limited; it includes traditional crafts in construction, printing, the pulp and paper and shipbuilding industries, as well as crafts such as stationary engineers, pattern makers, and bartenders in hotels and restaurants. In general, the Board refuses certification of such crafts as molders or electricians who are part of the maintenance staff. The Board also refuses certification requests of emerging crafts unless they have established a pattern of bargaining in an industry through voluntary recognition.[20] The attitude of the Board towards craft certification can best be illustrated by an excerpt from the reasons for judgment in the case of the Steel Company of Canada. Finkleman stated then: "the atomization of organization by the creation of new craft unions is not encouraged. Only trade unions pertaining to a craft in which employees are separately organized in accordance with established trade union practice are entitled to the special protection provided by law."[21]

Section 6(2) of the O.L.R.A. permits the Ontario Board to grant bargaining rights for a craft unit only to "a trade union that according to established trade

union practice pertains to such skills or craft." In effect, this protects established trade unions operating along craft lines but bars from certification newly formed craft unions, even though the members of such unions may be fully qualified craftsmen.

The National Council of Canadian Labour expressed the view, in a submission in 1957 to the Select Committee on Labour Relations of the Ontario Legislative Assembly, that this seems particularly unfair, since in practice "it amounts to denying to a worker the right to join the trade union of his choice, and also because no such corresponding record of previous activity is required in the case of newly formed industrial unions seeking certification from the Board."

The National Council of Canadian Labour requested an amendment of the Ontario Act in order to correct this injustice; however, the request of the Council was *not* expressed in recommendations concerning amendments to the Ontario Labour Relations Act made by the Select Committee on Labour Relations. In view of its demand for guaranteeing the right of employees to join the union of their choice, it would seem that the Council's submission had some justification and, consequently, merited further consideration. However, certifications of new craft unions would probably have resulted in considerable competition between the old and new craft unions, and this in turn, could have increased the work load of the Board and, possibly, contributed to some industrial friction. Nevertheless, would not competition between unions assure craft union members of better representation and greater choice? Is not this the same choice that is presently available to industrial workers but closed to craft workers?

***The Canada Labour Relations Board***

Although the C.L.R.B., unlike the O.L.R.B., has no legislative guide lines confining craft certifications to persons with established trade union practice, the C.L.R.B. tends to limit certifications to traditional crafts, e.g., stationary engineers The C.L.R.B. has considerable amount of legislative authority in deciding when a group of employees constitutes an appropriate craft eligible for certification. In applying its authority, the C.L.R.B. relies on the following criteria:

1. The extent of training.
2. The distinguishability of craft employees from other employees in the industry.
3. Previous instances of voluntary recognition of similar craft units in the industry.
4. The local conditions and manner in which the work is organized and carried on in the employer's establishment.

The criterion of extent of training necessary to acquire a craft was applied in the case of the International Union of Operating Engineers, Local 796, and Northspan Uranium Mines Ltd.,[22] where the C.L.R.B. rejected the certification for

hoist operators because they "do not undergo any formal type of training" and because they are not "required to hold provincial government licences."

Another case illustrating this principle concerned a craft certification application of Lakehead Grain Elevator workers.[23] In this case, although the Board gave some weight to the training involved, it rejected the application because the electrical helpers and assistant electricians, who were a part of the unit for which the union sought certification, did not undergo "an apprenticeship in the electrical trade or other prescribed or systematic course of training or examinations leading to a qualified journeyman electrician status such as is generally required in obtaining skilled craft status and the recognition."

A case, when the C.L.R.B. applied the criterion of distinguishability of craft employees from the rest of the employees in the whole plant, concerned five separate applications made by the Lakehead Grain Elevator Electrical Workers to be certified as bargaining agent for a unit of electrical maintenance workers who were part of the maintenance staff employed at the following companies: Saskatchewan Wheat Pool, Eastern Terminal Elevator Company, Manitoba Pool Elevators, McCabe Grant Company, and United Grain Growers.[24] The Board rejected the five applications. One of the considerations in the Board's decision was the fact that "the electrical employees in the proposed unit were in fact a part of the maintenance staff employed in the elevator comprising millwrights, carpenters, blacksmiths, welders and tinsmiths."

When determining the eligibility of craft employees for certification in the case of the Seafarers' International Union and the Canadian Pacific Railway Company,[25] the C.L.R.B. considered local conditions and the way that the work was organized and carried on in the employer's establishment and expressed the view that it is the Board's duty:

> "in considering any application for certification to determine the appropriate bargaining unit. The Board does not consider it either feasible or desirable to attempt to formulate rigid rules for application in determining an appropriate bargaining unit. The established practice in the industry, local conditions and considerations and special circumstances relating to the manner in which the work is organized and carried on in the employer's establishment, are all factors which may enter into the conclusion arrived at in any particular instance."

### *The Manitoba Labour Board*[26]

The M.L.B. is the only Canadian Board that has the guidance of an elaborate set of written criteria as to what constitutes a craft. These criteria are included in the Rules of Procedure and practice for administering the M.L.R.A.[27]

Section 2 of the regulation states:

> "A 'craft unit' means a unit consisting of all those employees of an employer who are distinguishable from the employees as a whole by reason of the fact that they belong to a craft; and includes all those who are journeymen craftsmen, those who are apprentices, and those who have definitely commenced the doing of work or the acquiring and exercising of skills leading in the established custom of the craft or in the established practice of the employer to journeyman

> status in the craft; but does not include employees who are doing labouring work for craftsmen without having commenced on the standard course of training and work leading to journeyman status in the craft."

Compared to other jurisdictions where there are no similar written criteria, the M.L.B. has definite guidance in deciding what constitutes a craft.

### *The Saskatchewan Labour Relations Board*[28]

The S.L.R.B., which is not subjected to any craft certification provisions, probably applies the most liberal standards of all the Canadian Boards in determining the eligibility of a group of employees to be certified as a craft unit. This is evident from the S.L.R.B's. reasons for judgment in the case of University of Saskatchewan[29] where the Board expressed the view that:

> "Clause (a) of Section 5 of the Trade Union Act gives it the power to make orders determining whether the appropriate unit of employees for the purpose of bargaining collectively shall be an employer unit, craft unit, plant unit, or a subdivision thereof or some other unit."

The Act, however, does not lay down any rules as to when a unit smaller than an employer unit should be determined as appropriate; and, whenever cases of this kind have arisen, the Board has made a decision that seems to it to accord best with the circumstances of the individual case. One important principle, which the Board has applied, is that:

> "if the nature of the operations performed by a particular group of employees is sufficiently distinct so that the wages, hours and other working conditions of those employees must necessarily be determined on a different basis than the wages, etc., of other employees of the same employer, than those employees may be regarded as a distinct unit for the purpose of bargaining collectively if they so desire." [30]

### *The Quebec Labour Relations Board*

The Q.L.R.B., as with the S.L.R.B., is not governed by any craft certification provisions. In determining the eligibility of crafts for certification, however, the Q.L.R.B. does not follow certification practices similar to those used by the S.L.R.B. but applies criteria which are more in line with those of most other Boards.

The Q.L.R.B. does not certify new crafts. The Board insists that, in cases of certification, any new craft in question has to have a history of collective bargaining in its respective industry, and that the skill that such employees exercise must be distinct from that of other employees of the company. It is extremely difficult for a new craft to gain certification in Quebec. A new craft may only be certified where it is not an integral part of the production unit and where the employer does not object strongly to it: however, even then such certifications are rare.[31] Perhaps the only way for certification of a new craft would be through the establishment of collective bargaining on a voluntary basis and the conclusion of a collective agreement with the employer. Thus, if a pattern of collective bargaining for this craft could be developed, the craft unit would eventually become eligible for certification.

When the Q.L.R.B. considers approving a new craft for certification, the Board takes into consideration the possible impact of its action on the industrial relations of the industry as a whole.[32] The Q.L.R.B. is opposed to separate certification of even established crafts when these crafts are an integral part of the production process – but this is not always easy to ascertain since there are always the marginal cases. For example, stationary engineers provide steam for production, but are they an integral part of the production process?

The importance attached by the Q.L.R.B. is to whether a craft is "directly and closely linked with the work done by the production employees in the plant" can be gathered from the case of the Continental Can Company[33] as well as from the case of the General Cigar Company.[34]

In the latter case the Q.L.R.B. stated:

> "considering that the stationary mechanics and their helpers, in this particular case, are performing an operation not only allied but even integral to the production, it is alleged that humidification of tobacco is the responsibility of stationary machine mechanics and their helpers and that these operations are part of the production process; whereas the existing joint negotiations have already been deemed appropriate, the Q.L.R.B. does not consider itself justified to bring to it any changes."

Thus, the Q.L.R.B. refused to certify the craft employees separately and, in reaching its decision, referred to the practices of the United States National Labor Relations Board (U.S.N.L.R.B.). The Q.L.R.B. was of the opinion that the importance of determination in craft certification — of the extent to which craft employees are linked with production employees – had been recognized by the U.S.N.L.R.B. and, consequently, the application of this concept in Quebec "is in conformity with the American experience and practice."[35]

### *The British Columbia Labour Relations Board*

In deciding on the appropriateness of a craft unit for certification purposes, the B.C.L.R.B. is concerned not only with the characteristics of the craft but also with the place of employment of the proposed members, and whether they are employed in a particular industry. If the craft employees are all employed in the same plant, or by the same employer in different plants that are classified in the same industry, the Board might certify the unit; but if they are employed in plants, some of which are classified as *primary* and others as *secondary* industry, the unit would usually be denied certification, even if all the craft employees were working for the same employer. In cases where there are no industrial unions or where there are no certification applications from such unions, the B.C.L.R.B. might consent to separate certification of crafts such as stationary engineers.[36]

Whenever the B.C.L.R.B. grants craft certification, it generally confines this to well established crafts with a history of collective bargaining in the province. The B.C.L.R.B. favours industrial units over craft units, except in industries where bargaining is traditionally conducted on a craft basis, such as in printing and construction.[37]

### *The Alberta Board of Industrial Relations*[38]

The A.B.I.R. practice is to recognize, as eligible for certification, only those crafts that are well established occupations with a tradition of collective bargaining in the province. The Board also requires that members of a proposed craft unit are employed in their crafts on a twelve-month basis. In certification cases where employees "performed and carried out the duties of a stationary engineer a major portion of the time"[39] the A.B.I.R. approves separate craft certification.[40]

The A.B.I.R. refuses to carve out from industrial bargaining units craft employees such as stationary engineers, where the engineers work only *some of the time* in boiler rooms and the rest of the time are engaged in maintenance and steam processing. But this practice is relatively recent; until four or five years ago the A.B.I.R. was always willing to certify stationary engineers separately from other plant employees. The change in policy can be attributed partly to a new seasonal pattern of utilization of stationary engineers in some industries; for example, in the petrochemical and chemical industry, and in sugar refineries, stationary engineers work elsewhere than in boiler rooms and power plants during the off-season months.[41]

In the case of Canadian Sugar Factories Ltd., Raymond, Taber and Picture Butte,[42] the A.B.I.R. rejected a certification application for *certified* engineers.[43] The grounds for this decision were that the engineers performed engineering duties only during a relatively short, seasonal, peak period of seventy-five days or slightly longer and, during the balance of the year, the engineers were engaged in maintenance and reconditioning work in the factories of the respondent and performed work that was not the normal work of a licensed engineer.

### *The Maritime Labour Relations Boards*[44] *of Nova Scotia,*[45] *New Brunswick*[46] *and Prince Edward Island*[47]

Unfortunately, the Maritime Boards do not issue reasons for their judgments that could be used to deduce the certification practices of these Boards, as in the cases of some other jurisdictions. Information on craft certification practices in this area could only be obtained by personal interviews and correspondence with Labour Board executives in Nova Scotia,[48] New Brunswick,[49] and Prince Edward Island.[50]

In Nova Scotia and New Brunswick, craft certifications are limited to crafts that traditionally have established their rights to separate bargaining while, in Prince Edward Island, the Board objects altogether to the separate certification of craft employees.

## Different Practices of the Boards with Respect to Craft Units Being Carved Out of Existing Industrial Units

### *The Canada Labour Relations Board*

The C.L.R.B., when confronted with the applications, is usually willing to allow bona fide craft employees to be carved out of existing bargaining units,

assuming all other certification requirements have been met,[51] because the Board's views under the existing legislation are that it has no other alternative.[52] This may be gathered from the case[53] where the Board upheld the position of the applicant craft union. The C.L.R.B., in reaching this conclusion,[54] applied principles laid down by the Wartime Labour Relations Board and referred to their certification of a craft group of bricklayers and apprentices in a steel plant, despite the fact "that this group had prior thereto been part of a plant unit which had over a number of years been represented in collective bargaining by an industrial union." [55] The Wartime Labour Relations Board ruled in this case that: "The mere fact that this craft group has not had separate representation for collective bargaining purposes in this plant in the past several years does not in itself operate as a bar to recognition, at this time, as a separate craft bargaining group as provided in Section 5, Subsection 4 of the Regulations."

***The Manitoba Labour Board***

Another Board that is willing to approve certification application for craft units to be carved out of existing certified industrial units is the Manitoba Labour Board. This practice is not followed, however, in every case; there have been instances of the M.L.B. refusing such certification applications. The criteria applied by the M.L.B. for refusals and approvals of such applications are evident from the following cases.

In that of the Manitoba Sugar Company Ltd., Employer; the International Union of Operating Engineers, Local 827, AFL, Applicant; and the United Packinghouse Workers of America, Local 404, Intervener;[56] the M.L.B. refused to part a craft unit from an existing industrial unit on the grounds that "a bargaining unit is appropriate if the interests of the employees therein are capable of being adequately represented by a common group of bargaining representatives." The Board based its decision on the fact that the craft employees exercised "their craft or technical skill for approximately 68 days out of a full year's employment" and for the rest of the year were "employed in a composite capacity . . . like the other plant employees."

The M.L.B. was not unanimous in its decision; Mr. W. E. Wilson, Chairman, and Mr. J. B. Graham, a member, dissented from the majority decision and submitted a written, dissenting, minority report.

The Union of Operating Engineers appealed the majority decision of the M.L.B. to the Court of King's Bench in Manitoba and the case was heard by Mr. Justice J. Campbell on November 15 and 16, 1951. Judge Campbell rendered his decision on January 16, 1952, and reversed the majority decision of the Board. The Judge stated that "the Board should have certified the Respondent Union as the bargaining agent for all the engineers and firemen employed by the Manitoba Sugar Company, under the provision of The Manitoba Labour Relations Act." The Judge issued an order of mandamus requiring the Board to certify the respondent union accordingly. The M.L.B. appealed this judgment to the Court

of Appeal, which reversed the decision of the Court of King's Bench on June 17, 1952, and upheld the original decision of the M.L.B. of March 15, 1951.

After the case of the Manitoba Sugar Company, the M.L.R.A. was amended to clarify the Board's right to refuse to carve out craft units from industrial units. Consequently, the amendment to Subsection (b) of Section 8, leaves it to the "opinion of the Board" to decide whether "the circumstances warrant the separation of the group from the employees as a whole."

Although, under the Act, the M.L.B. now has the discretionary powers to refuse to carve out craft units from existing industrial units, and although this was the course of action followed in the case of the Manitoba Sugar Company, in most cases the M.L.B. practice has been to carve out bona fide craft units from industrial certified units[57] – unlike that of the Ontario, Quebec, and British Columbia Boards. The M.L.B., for example, authorized the carving out of craft employees from a certified bargaining unit embracing all employees of the Grand Rapids Constructors Company.[58]

Usually, the M.L.B. only refuses the certification of a craft unit when the craft employees are engaged in their craft for less than fifty per cent of their working time throughout the year.[59] Otherwise the M.L.B. certifies such employees, assuming that all of them exercise technical skills or belong to the stated craft and are gathered into the 'unit', and that the applicant is a union with a constitution specifically pertaining to the craft. A majority of all employees in the craft, or those exercising the skills, must also be members in good standing.[60]

### *The Saskatchewan Labour Relations Board*

The S.L.R.B. is another Board that, in common with C.L.R.B. and the M.L.B., is willing to carve out craft units from industrial units.[61] The Trade Union Act of Saskatchewan, unlike labour statutes in other Canadian jurisdictions, has no provisions governing craft certifications except clause (a) of Section 5 that provides the S.L.R.B. with the power, among others, to certify craft units.

The attitude of the S.L.R.B. with respect to craft certification was summarized very well in the case of the United Retail, Wholesale and Department Store Employees' Union, Local 455, vs. J. M. Sinclair Ltd.[62] when the S.L.R.B. made the following statement:

> "If the employees in a separate craft or subdivision within the plant in respect of which orderly collective bargaining can be carried on wish to have a different union represent them than that chosen by the employees in the plant as a whole, or if the employees in such craft or subdivision wish to have a trade union represent them in collective bargaining while the remaining employees in the plant do not wish such representation, it is in order for such a craft unit or other subdivision to be determined as an appropriate unit of employees for the purpose of bargaining collectively."

### *The Ontario Labour Relations Board*

The policy of the O.L.R.B. on craft certification prior to 1960 could be compared to similar policies by the C.L.R.B., the M.L.B., and the S.L.R.B. All these Boards consented to carve out craft units from industrial bargaining units.

In 1960, however, the O.L.R.B.'s policy on craft certification was changed. Previous to this, and because of legislative craft provisions in the Ontario Labour Relations Act, the Board had no choice but to certify any craft union upon request when this union pertained to a particular craft and when the craft was a recognized craft within the meaning of the Act. Generally, this meant that the Board had to carve out a craft unit from an established, certified, plant unit.

The practice of the O.L.R.B. can best be illustrated by a 1946 case[63] in which a certification application by The Pattern Makers Association was opposed by the United Steelworkers Local 1005 on the grounds that craft certification should only be granted where the craft union applied for recognition when a plant was just organized.[64] The Board rejected the respondent union's argument and stated that it could not conceive that "the authors of the legislation intended the privileges of established craft unions to be confined within the narrow limits suggested by the intervener, i.e., that craft privileges are to be granted only if the craft group has asserted its claim to such privileges at the time when a plant is first organized."

About 1960 there were many cases before the O.L.R.B. concerning craft units being carved out of existing industrial units; the Union of Operating Engineers was particularly involved. These cases led to friction between craft and industrial unions, and between employers and craft unions.[65] The International Union of Operating Engineers, by controlling stationary engineers in particular plants, were forcing employers to pay higher wages and, in many instances, contributed to industrial unrest. This union often refused to bargain at the same time as an industrial union; it would wait until the industrial union reached a settlement and then force the employer to grant a larger increase. Non-compliance with these requests meant strikes, and there were cases where groups of only a few stationary engineers would tie up plants composed of hundreds, or even thousands, of workers.[66] The industrial unions resented these developments and, eventually, the CLC expelled the Union of Operating Engineers.

Because of this industrial conflict the Ontario Labour Relations Act was amended in 1960. It was now to be at the Board's discretion as to whether the craft principle was to override other considerations in determining the appropriate bargaining unit – for instance, when employees in a craft group along with other employees were already represented by a bargaining agent and then a craft union sought to represent a craft unit by carving this out of the overall unit.

In reality, this amendment meant that the O.L.R.B., after 1960, refused in most cases to carve out craft units from existing, bargaining plant units; the only exceptions were units in the printing and construction industries where craft bargaining is the acceptable pattern of negotiations.[67]

An indication of the O.L.R.B.'s attitude towards carving out craft units from industrial units after the amendment of Section 6(2) of the O.L.R.A., is given by the 1961 cases[68] when the Canadian Union of Operating Engineer sought a certification for a unit comprising engineers and helpers. Counsel for the respondent[69] and for the intervening union[70] opposed the application on grounds that the station-

ary engineers were an integral part of the plant bargaining unit, and the company signed a collective agreement with the International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (U.A.W.) that embraced all employees of the firms including stationary engineers.

The O.L.R.B. dismissed this application on the grounds that "the intervener has effectively represented over a period of many years the stationary engineers in the employ of the respondent, and the only ground offered to support the claim of the applicant to sever the stationary engineers from this bargaining unit is the fact that the applicant has organized them." The Board ruled that in view of the facts set out in the case and because of the amendment to Section 6(2) of the Act, the unit proposed by the applicant was inappropriate in the circumstances of the case; accordingly, the application was dismissed.

There were also a few instances after the amendment when the O.L.R.B. consented to carve out craft units from existing industrial bargaining units. An illustration is the construction case[71] in 1961 when the applicant union[72] sought a certificate for a bargaining unit of the resilient-floor layers employed by the respondent company,[73] who opposed the application under the provisions of Section 6(2) of the O.L.R.A. The respondent cited in support of his submission the fact that there was a collective agreement between the respondent company and the Tile Setters, Marble Masons, Terrazzo Workers and Composition Tile Layers Union Local 16, covering all employees engaged in marble, tile or terrazzo work. (The term 'composition tile' was defined in this agreement as including resilient-type flooring.)

In its reasons for judgment in the case, the Board expressed the opinion that "the words that were added to Subsection 2 of Section 6 by the Labour Relations Amendment Act, 1960, conferred upon it a discretion where an applicant seeks to sever a craft unit from an established unit, the employees in which are represented for collective bargaining by an incumbent trade union." The Board thought that in the construction industry, where traditionally the organization has been continued on a craft basis, great weight had to be given to craft interests. And it believed it should note that most disputes concerning jurisdiction arose in the construction industry. Having regard to these considerations, the Board ruled that a unit of resilient-floor layers was appropriate for certification.

In carving out craft units from industrial units, the O.L.R.B. presently applies principles that were enunciated in the case of the Sheraton Brock Hotel, when the Board stated that:

> "where all the parties, and more particularly of course where the respondent and the incumbent union consent, either expressly or impliedly, to the severance of the craft unit, the Board, in the six months or so that have elapsed since the amending 1960 legislation came into effect, has exercised its discretion in favour of the severance of the craft unit. Where objection to the appropriateness of the unit was taken either by the respondent or by an incumbent union, other considerations applied."

Without attempting to give a complete list of these considerations, the Board expressed the view that:

> "it was probably safe to say that the nature of the industry, organizational practices in the industry, the history of collective bargaining in the industry and in a particular establishment, have to be taken into account [and, as in the present case, affirmed that where] an incumbent union or its parent body or its sister locals were in the habit of organizing either on craft or industrial lines, as may suit their respective purposes at any given time, great weight should be given to craft interests, despite the objection of the incumbent. The situation may well be otherwise in a case where (1) the objection is registered by the employer, or (2) the objection is registered by an incumbent which is engaged in diverse forms of organization, i.e., craft or industrial, but where the diversity is determined by the nature of the operation in which organization is being carried on. Thus, in the last situation, a union which organizes predominantly on craft lines – for example, a trade union in the construction industry – may be organizing on industrial lines in plants which operate on a production basis." [74]

Thus, the practice of the O.L.R.B., in most instances, is to refuse certification applications requesting the severance of craft units from industrial units; however, the Board still continues to certify traditional craft units in cases where:

1. The union is appropriate to represent the craft.
2. The craft employees are not represented by an industrial union with other plant employees.
3. The incumbent and the respondent union agree to such certifications.

### *The Quebec Labour Relations Board*

Although the Q.L.R.B. – unlike the O.L.R.B. – is not subjected to any legislative provisions concerning craft certifications, it has complete freedom of action on these issues. In this respect, the views of the Q.L.R.B. closely resemble the current practices of the O.L.R.B. on craft-severance certification issues. Thus, in cases of the existence of certified industrial bargaining units, the Q.L.R.B. will rarely permit separate craft units to be carved out, especially if the crafts are satisfactorily represented by an industrial union.[75]

In the case of the Continental Can Company of Canada[76] the Q.L.R.B. refused to sever a group of craft employees from a larger industrial certified unit. The Board, in giving reasons for judgment, said that the only issue it had to determine in this particular case was whether the "mécaniciens à machines fixes et leurs aides constitute an appropriate bargaining unit of the plant of the Company." The Board also stated that its duty is "in all cases where certification is requested, to determine what bargaining unit is appropriate in the premises" [77] and held that in the final analysis, it had already decided this issue. In effect, the Board had determined the appropriate bargaining unit when it granted certification to the incumbent bargaining agent, 'The Fraternité', for the employees as a whole including the 'mécaniciens à machines fixes et leurs aides', and felt that the demand for carving out the craft unit was, in a sense, a request to the Board to revise its previous decision. The Board stated that:

> "Though the Board, of course, may revise its own decision for cause, under the provisions of Section 41 of the Act, it is hardly necessary to state that it must first satisfy itself that there is cause to do so."

In this particular case the Board did not think that the circumstances in the plant had changed sufficiently to justify a revision and expressed the view that:

> "On the contrary, the evidence clearly indicated that the situation in the plant in regard to its employees in general and the 'mécaniciens à machines fixes et leurs aides' in particular, insofar as their duties and nature of employment were concerned, was exactly what it was when certification was first granted to 'The Fraternité'."

### *The British Columbia Labour Relations Board*

Although the Section pertaining to craft provisions in the B.C.L.R.A. was modelled on that of the federal I.R.D.I. Act, this Section is interpreted quite differently by the two Boards – B.C.L.R.B. and C.L.R.B.

The Canada Labour Relations Board believes that it has no choice but to certify a group of employees (of one employer) which belongs to a craft or group, by reason of which it is distinguishable from the other employees as a whole, even if it is necessary for such a group to be carved out of a certified industrial unit.[79] However, the B.C.L.R.B. believes that it has a choice[79] by virtue of the wording of Section 11(1), which is identical to Section 8 of the I.R.D.I. Act, and this states that a craft shall be certified "if the group is otherwise appropriate as a unit for collective bargaining."

The B.C.L.R.B. assumes that it always has the discretionary authority to decide[80] whether a craft group is "otherwise appropriate as a unit for collective bargaining" and refuses to carve out units from existing certified units or from units subject to collective agreements.

Exceptions to this practice are made only for stationary engineers in hospitals. The reasons that the B.C.L.R.B. makes these exceptions are based on the traditional pattern of hospital stationary engineers always forming their own separate bargaining units and on their being the first union to organize hospitals, which has set a foundation for separate bargaining.[81]

Similarly the traditional pattern of separate bargaining was established by the stationary engineers in logging. Until 1960 the Board was willing to certify them separately, even to the extent of carving them out of existing certified units. However, a few years ago the Board changed its practice and refused to do this. The change in the Board's policy was due "to an irresponsible strike by stationary engineers." [82]

The cases of Canadian Collieries Resources Ltd., (Flavelle Cedar Division)[83] and Brownlee Industries Company Ltd.,[84] illustrate this. The B.C.L.R.B. refused to allow both applications by the International Union of Operating Engineers for certification as a bargaining agent for a unit of employees composed of stationary engineers and firemen. Both applications were rejected because the Board determined that the units applied for were not appropriate for collective bargaining.[85]

### *The Alberta Board of Industrial Relations*

In an unpublished paper Mr. K. A. Pugh, Deputy Minister of Labour, and Chairman, A.B.I.R.,[86] expressed the view that it was quite clear to the Board that "by the very language of the definition of a unit, the legislature is not primarily concerned with protecting or advancing the cause of either craft or industrial unions as such. While other Acts have permitted or even encouraged craft severance, the Alberta Act merely states that a unit may be a craft or industrial type, recognizing that either one type or the other may be more appropriate depending upon the type of industry or other circumstances." The Alberta Labour Act gives no special weight to either type.

Pugh also referred to the controversy between craft and industrial plant unions and stated that "one of the worst problems in this feud between crafts and industrial forms of trade unions is the splintering of units by the crafts." He expressed the view that he appreciated that some provincial legislation by specific provisions resolved much of this problem by leaving it to the discretion and wisdom of the Boards, as to whether or not a splinter group is an appropriate unit.

Pugh's paper as well as a review of a number of decisions[87] by the A.B.I.R. seem to indicate that the Board, similar to most other Canadian Boards, is reluctant to carve out craft units from existing, certified, bargaining units. This does not mean, however, that the A.B.I.R. never does it. In the case of traditional crafts such as stationary engineers, the A.B.I.R. is willing to carve out a craft from the industrial unit. A case in point concerns the Canada Creosoting Company Ltd.[88] when the A.B.I.R. certified separately a group of stationary engineers on the grounds that in the past the Board had "always considered that stationary engineers were an appropriate unit for collective bargaining." [89]

### *The Maritime Labour Relations Boards of Nova Scotia, New Brunswick and Prince Edward Island*

The Boards of New Brunswick and Prince Edward Island[90] have not so far separated craft units from industrial units.

The New Brunswick Board has never been confronted with such certification applications; however, its views toward such applications have been summarized in a letter to the writer by Mr. J. C. Tonner, Secretary of the N.B.L.R.B. Tonner wrote that any requests for carving out craft units from industrial units would be examined very closely by the Board and "if an apparent injustice was being perpetuated this perhaps would be considered sufficient reason for doing so. Historically and by custom the stationary engineers and firemen bargain separately and this might be an example of a group who would succeed in such an application."

The views of the P.E.I.L.R.B. with respect to craft certification have been summarized by Mr. C. R. McQuaid, Chairman of the P.E.I.L.R.B., in a letter to the writer: "The Board does not certify craft units as such and as distinguished from

units of other types, and would not likely carve out a craft unit from an existing certified unit."

The N.S.L.R.B., unlike the P.E.I.L.R.B., is subjected to specific legislative provisions that govern craft certification. Under Section 8 of the Nova Scotia Trade Union Act, the Board feels that it has very little choice but to comply with the certification request;[91] however, Dean Read, the Chairman of the N.S.L.R.B., has suggested that he "would like to have a provision in the Act similar to Section 6(2) of the Ontario Act, which permits the Board to deny certification if the group making application is already included in an existing bargaining unit." This statement was made in 1962 to the Nova Scotia Fact-Finding Body on Labour Legislation, headed by Judge A. H. MacKinnon.[92]

A submission by the Nova Scotia Federation of Labour also supported Dean Read's statement and contended that "so far as craft unions are concerned the Board should have discretion to consider each application on its merits as to whether a unit may be considered a craft or industrial unit." [93]

Although, on occasions in the past, the N.S.L.R.B. has dismissed certification applications that required craft units to be carved out of all-employee certified units, the Board considers that it has little discretionary power to do so, either legally or theoretically; however, the grounds given for these dismissals have usually not conflicted with Section 8 of the Act.

## Observations

The Labour Relations Boards in most Canadian jurisdictions are reluctant to certify or carve out craft units from existing industrial units. This is readily understood as the Boards are composed of an impartial chairman, representatives of craft unions, and representatives of employers and industrial unions who form a majority; since industrial unions would lose members by carving out craft units and employers' representatives do not like to see employers having to bargain separately with several different unions, both parties oppose craft certification.

With this composition, all Labour Relations Boards probably have a built-in bias against the carving out of craft units. This bias against craft certification may be rationalized under various pretexts. One example is a ruling that the unit applied for is not appropriate for certification without further elaboration — this ruling would not conflict with any legislative provisions.

Despite special craft certification provisions in most Canadian labour relations statutes, the future for certification of craft units does not seem to be too encouraging. A number of factors all point to a decline in craft certification:

1. The recent amendments by the Ontario and Manitoba legislatures to provide the Boards with more discretionary powers than they had in the past concerning craft certification.
2. The demand for similar powers by the N.S.L.R.B.

3. The reluctance of Boards in most Canadian jurisdictions to carve out craft units.
4. The certifications of only those crafts that are well established and have a history of collective bargaining.
5. The inability of emerging crafts to obtain certification.
6. The composition of Boards where the votes of representatives of employers and industrial unions outweigh those of the craft union members.

This does not mean the decline of craft certification in those industries where it has been accepted traditionally as the pattern for collective bargaining — in such industries as construction and printing — but the decline will probably be noted mostly in those industries where the crafts have to compete against the industrial unions.

# 2

# BARGAINING UNITS OF OFFICE, SECURITY, AND HOURLY-PAID EMPLOYEES

The approach to certifying different types of bargaining units has varied among the Labour Relations Boards. In order to examine these practices, it is necessary to separate the different types of units. The certification of bargaining units of office, security, and hourly-paid workers, is examined in this chapter.

## Office Employees

The Labour Relations Boards have never been bound by any particular legislative restraints for the certification of appropriate bargaining units for office employees, as compared to those for craft employees, though they have discretionary powers to determine whether office employees should be certified either in separate bargaining units or with other groups of employees. Nevertheless, there is a certain similarity between the certification of craft and office employees. Should a Board decide to certify craft or office employee groups separately, in both instances, it would *in effect* be recognizing the right of a minority group to separate representation and, also, be recognizing a minority group's lack of a community of interest with other employees.

The practices of Labour Relations Boards, when confronted with the issue of office employees, vary considerably from jurisdiction to jurisdiction. Some Boards, as a matter of policy, never certify office employees with any other group of employees; other Boards are ready to approve a union application that requests certification for a group of employees composed of plant and office employees when it meets all the other certification requirements. The Boards of Ontario, Quebec, Alberta, Nova Scotia, and New Brunswick, come into the first category and the Canada Labour Relations Board, and the Boards of British Columbia, Manitoba, Saskatchewan, and Prince Edward Island, into the second.

The principle of community of interest – an important concept – is the main criterion used by some of the Boards to decide whether or not to separate office from non-office employees. Office and non-office employees do not share similar interests in collective bargaining on issues such as wages, hours of work, overtime, vacation and sick leave privileges; e.g., office employees, who in many instances

are women, might be more interested in higher wages than in pension plans or other job securities, but this would not necessarily be true of production workers. These two groups of employees combined in one bargaining unit might cause discord, but such friction could be avoided by the formation of separate units. Also, voting on issues such as strikes, acceptance of contracts, or selection of bargaining agents, would reflect the heterogeneous character of bargaining units composed of office and non-office employees and this, in turn, could cause conflict within the units. The community of interest concept has a great deal in its favour, therefore, as a criterion for certification.

***The Canada Labour Relations Board and those of British Columbia, Manitoba, Saskatchewan and Prince Edward Island***

These Boards do not follow a definite policy of always separating office employees from plant employees though many of their certification orders do make such a distinction. This is due more to the certification applications, which in most instances distinguish between the two groups, than to any conscious effort on the part of the Boards.[1] For example, in about ninety per cent of the certification orders issued by the B.C.L.R.B., office employees have been excluded from certified bargaining units covering plant employees because the unions requested such separations in their certification applications.[2] Generally, unions exclude office employees from certification applications embracing industrial employees.

Although all these Boards are willing to certify office employees with plant employees, they do this only with the consent of the office employees. Without this safeguard, industrial unions could absorb the office employees in large bargaining units; in such units, the industrial unions could have enough support for certification from the plant employees, even if all the office employees were opposed to this.

The S.L.R.B. has established the principle "of including office staff in a bargaining unit if a majority of the office employees appear to want to be included."[3] In the case of the Moose Jaw Steam Laundry Co. Ltd.,[4] the applicant union requested the exclusion of office employees from the bargaining unit and the union request was granted. The S.L.R.B. noted that the inclusion of office employees would not have affected the union's majority standing. In its reasons for judgment the Board stated that "if the office employees believe that they should be included in the appropriate unit, the Board will entertain an application from them to have the order amended to that effect."

The S.L.R.B. will also exclude office employees from bargaining units composed of other employees if the constitution of the applicant union does not provide for their inclusion; e.g., the case of R. L. Cushing Millwork Company Ltd.[5] Here, the S.L.R.B. referred to the constitution and laws of the applicant union – to the Section that defined the union's intended jurisdiction – and concluded that "office employees do not come within the jurisdiction of the United Brotherhood of Carpenters and Joiners of America [and] it would obviously be ridiculous to

include them in a unit of employees on behalf of whom a local of the U.B.C.J.A. is going to bargain."

Some Boards consistently refuse to certify units comprising both office and non-office employees in certain industries; e.g., the logging industry of British Columbia. Here, there is an unwritten understanding between the B.C.L.R.B., the employers, and the Union of International Woodworkers of America (I.W.A.) that office employees should be excluded from units composed of other employees. Consequently, when certifying logging units, the B.C.L.R.B. consistently exclude office employees from bargaining units, even if the petitions for certification by the I.W.A. do not refer to such exclusions.[6]

The C.L.R.B., the B.C.L.R.B., the M.L.B., the S.L.R.B., and the P.E.I.L.R.B., approve three types of certification orders involving office employees:

1. The Bargaining unit that includes office and non-office employees.
2. The plant bargaining unit that excludes office employees.
3. The separate bargaining unit for office employees.

The following cases illustrate certification orders *that include office and non-office employees:*

> The C.L.R.B. certified the Canadian Brotherhood of Railway, Transport and General Workers' Union as a bargaining agent for various clerical and manual classifications[7] in the case of the Canadian National Railways, Montreal.
>
> The B.C.L.R.B. certified the Retail Wholesale and Department Store Union, Local No. 535, as bargaining agent for the employees of Taylor Pearson and Carson (B.C.) Ltd., 1100 Venables Street, Vancouver, for "those employed at 3102-29th Avenue, Vernon, except outside salesmen." [8]
>
> On May 20, 1963, the M.L.B. granted a certification order to the Retail Clerks, Local 1575, for all employees of Weston Grocers at Flin Flon, Manitoba.[9] This certificate replaced certification order No. M.L.B.-274, which was for a plant bargaining unit only. The new certification order extended the bargaining unit coverage to office employees.[10]
>
> The S.L.R.B. issued a certification order to the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 834 (AFL/CIO), at the Saskatchewan Co-operative Creamery Association Ltd.,. Langenburg, for: "all employees except the manager and the head bookkeeper." [11]
>
> The P.E.I.L.R.B. also issues joint certification orders for office and non-office employees. In a letter to this writer Mr. C. R. McQuaid, Chairman of the P.E.I.L.R.B., observed that: "The Board will not arbitrarily separate any proposed unit, and has [certified] and will certify office employees of certain categories together with plant employees."

The following cases illustrate certification orders *that exclude office employees:*

> The C.L.R.B. certified the Association of Employees of Grimshaw Trucking as the bargaining agent for a unit of transport drivers and warehousemen employed by Grimshaw Trucking and Distributing Ltd., Grimshaw, Alberta. The certification covered employees engaged as drivers and warehousemen, but did not include office employees, garage employees, or supervisors.[12]
>
> The B.C.L.R.B. certified at the end of May, 1959, the United Steelworkers of America, Local No. 2655, as the bargaining agent for employees at the Skookum Company of Canada Ltd.—for those employed at and from the company's premises at 647 Terminal Avenue, Vancouver, except office staff and salesmen.[13]

In 1960 the M.L.B.[14] certified the Thompson and District Mine, Mill Smelter and Refinery Workers, Local 1026, of the International Union of Mine, Mill and Smelter Workers (Canada), Thompson, Manitoba, as bargaining agent for all employees of the International Nickel Company of Canada, Ltd., in its Thompson, Manitoba, operations – except office staff, engineering staff, geological staff, foremen, shift bosses and those excluded by the Act.

In 1963 the S.L.R.B. certified the United Stone Allied Product Workers of America, Local 200 (CLC), as a bargaining agent for all employees of Industrial Welding Ltd., Saskatoon – except office staff, the manager, bookkeeper, draftsman, estimator, and except any person having and regularly exercising authority to employ or discharge employees.[15]

The following cases illustrate separate certification orders *for office employees*:

The C.L.R.B. granted a certification order to the Canadian Brotherhood of Railway, Transport and General Workers' Union on behalf of a unit of clerks and stenographers employed by the Canadian National Railways in the Western Region Work Equipment Department at Winnipeg.[16]

The B.C.L.R.B. granted a certification order to the International Union, Local No. 15, as a bargaining agent for the employees of Canadian Westinghouse Company Ltd., Vancouver, employed as office and clerical employees at 1090 Homer Street, Vancouver.[17]

The M.L.B. certified the Office Employees' International Union, Local No. 216 (affiliated with the AFL), Pine Falls, Manitoba,[18] as the bargaining agent for all the office employees of the Manitoba Paper Company Ltd., at Pine Falls, Manitoba, except those excluded by the Code.

The S.L.R.B. certified separately[19] the Office Employees' International Union, Local 297 (CLC), and the Co-operative Commonwealth Federation Publishing and Printing Company Ltd., Regina,[20] for: "All office employees and salesmen (including but not limited to stenographers, circulation manager, addressograph operator, assistant editor), except the general manager and secretary-treasurer, plant manager and editor and the sales manager."

The absence of a definite policy by the C.L.R.B. for office employees could be justified by the fact that industries falling under their jurisdiction do not always lend themselves to the formulation of a clear-cut policy on office employees' certification. In industries such as broadcasting, for instance, it may be quite difficult to separate office from non-office employees, especially on grounds of the lack of a community of interest, since office jobs in many cases may be connected with technical work, or vice versa. In industries under provincial jurisdictions, however, office employees generally do have very little community of interest with plant employees; consequently, it is relatively easy to separate these two groups. The lack of any clear-cut policy of not separating office from non-office employees by the British Columbia, Manitoba, and Saskatchewan Boards is, therefore, difficult to justify.

### *The Labour Relations Boards of Ontario, Quebec, Alberta, Nova Scotia and New Brunswick*

In contrast to the policy of the Boards discussed in the preceding section, the Boards of Ontario, Quebec, Alberta, Nova Scotia, and New Brunswick, follow a very definite policy of office employee certification. These Boards always separate office from non-office employee groups.

The O.L.R.B.[21] grants separate and distinct certificates to any union able to gain the necessary support from a group of office employees who constitute an appropriate bargaining unit. This attitude of the O.L.R.B..[22] is subject to one qualification that is suggested by a reservation in the Board's decision in the Gray Case.[23] The Board expressed the view that there may be exceptional circumstances when office workers might be included in the same bargaining unit with other employees. (By 'exceptional circumstances' the Board meant cases where office employees would be prevented from participating in collective bargaining if they were not included in non-office bargaining units.)

The O.L.R.B. has only been confronted by one or two such instances.[24]

> "In one case, that of a hotel in an isolated area in the northern part of the province, there was only one office employee. If the unit found appropriate in that case had excluded the office worker, that employee would have been denied the right to bargain collectively because of the provision in the Act that a unit certified by the Board must consist of more than one employee (Section 6(1), Having regard to this consideration, the Board held that the office worker should be included in the bargaining unit with the other employees. [At present] there is some sentiment on the Board that the principal applied in the hotel case just referred to should be applied not only in cases of isolated areas or where there is only one office worker, but also in other cases where the number of office workers is small." [25]

In cases where the O.L.R.B. does include an office employee in a non-office unit the employee has to be a member of the union. This way "the Board has sought to protect the office worker from being swept into the unit against his wishes." The O.L.R.B. does not object to situations where the employer voluntarily recognizes the union, and where the parties enter into a labour contract without prior certification embracing office and non-office employees. The O.L.R.B. also permits the parties after certification to merge office and non-office employees into one unit in a collective agreement.

> "In either of these circumstances, the mixed unit agreed upon by the parties will be treated by the Board as an appropriate unit in any subsequent proceeding before it in which the parties may be involved, say in conciliation proceedings, despite the fact that it does not conform to the Board's policy as to the joinder of plant and office workers in one unit." [26]

The main grounds given by the Boards of Ontario, Quebec, Alberta, Nova Scotia, and New Brunswick, for refusing to certify office employees with plant employees is lack of community of interest between these two groups of employees. In Ontario the foundation for this policy was laid in the Northern Electric case (unreported), when the Board stated that:

> "in the interests of all parties, office workers should be placed in a bargaining unit separate and apart from other employees, even though, as was the fact in that case, there was evidence that the office employees clearly expressed a preference for inclusion in the same bargaining unit with other employees." [27]

The attitude of the Quebec Board towards certification of office employees can be deduced from the following statement by the Board:

> "Employées de Bureau is a group that is appropriate for certification by itself and although by exception we will in some cases include employees in an all-employee unit, we will generally not include them in another group in which they have no special community of interest." [28]

The importance of the community of interest criterion in certification of office employees is also emphasized by the A.B.I.R.,[29] which generally separates office from non-office employees and certifies them in separate units.[30] In the few cases, which have usually involved municipal employees, the A.B.I.R. has departed from this policy and certified office employees together with other groups of employees.[31]

The criterion of community of interest with respect to office employees is more significant in Nova Scotia than in the other jurisdictions because of Section 9(5) of the N.S.T.U.A. in which it is stated that:

> "The Board in determining the appropriate unit shall have regard to the community of interest among the employees in the proposed unit in such matters as work location, hours of work, working conditions and methods of remuneration."

The same criterion for certification of office employees is also applied by the New Brunswick Board. In a letter to this writer, Mr. J. C. Tonner, Secretary, N.B.L.R.B. stated that:

> "In no case are office employees included in industrial or craft units. There is little community of interest and generally wages, hours of work, vacation and sick leave privileges, not to mention overtime payments, vary widely."

***Observations — Office Employees***

Certification practices by Canadian Labour Relations Boards for office employees could be divided into two categories: those Boards that usually separate office from non-office employees (the Board of Ontario, Quebec, Alberta, Nova Scotia, and New Brunswick) and those Boards that usually do *not* separate office employees from other industrial employees (the Canada Labour Relations Board, and the Boards of British Columbia, Manitoba, Saskatchewan, and Prince Edward Island).

Although, theoretically, the Boards can be divided into two groups on the basis of this policy difference, in actual practice the distinction is blurred in most jurisdictions. This is not so much because of the Boards' individual policies, but because of the descriptions of bargaining units in the unions' certification petitions – the unions themselves usually separate office employees from plant employees, or any other group, in their applications for certification.

The attitudes of the Boards, which as a matter of policy separate office from non-office employees, probably have more merit than the practices of those Boards that do not follow this course of action. The main reason for this assumption is the absence of community of interest between office and non-office employees. Nevertheless, by administrating such a policy too strictly, some office employees could be deprived of union representation; e.g., in cases where there are only one or two clerks in a firm these office employees might not be able to form a separate bargaining unit (being too small in number) and, consequently, they might wish to be represented with non-office employees. Also, in cases where the total number of employees in a firm is very small, e.g., a few clerks and a few industrial employees, the best solution might be to certify office and non-office employees jointly.

In units that are very small it may be difficult to find an able employee or one willing to participate in a bargaining committee. This was well stated in the Gray Case[32] in Ontario:

> "Many an employee who desires to have a union bargain for him may have no ability, or indeed, no desire to be a member of a bargaining committee. Another employee may fear his position will be jeopardized if he were to appear as a representative of the union and I regret to say that in some cases the fear is by no means an imaginary one. In a large unit, it is usually possible to find at least two persons who are prepared to place the common cause ahead of their reluctance of running the risk of offending their employer. The smaller the unit, the less likelihood there is of finding such people."

On the one hand, the separation of office from non-office employees by Labour Relations Boards might have some advantages, although too rigid an interpretation of such a policy can deprive some people of their right to collective bargaining; but, on the other hand, the lack of a deliberate policy on this subject can have some adverse repercussions in the long-term for industrial peace and union organization.

Up to the present, the degree of union organization among office employees has been relatively low; however, since they represent one of the largest categories of employees that are still unorganized in Canada, the number of certification applications from this source will most likely increase in the future. In view of this, are the policies of the Boards (i.e., which do not distinguish for certification purposes between office and non-office employees) the most suitable for dealing with such developments?

By certifying office employees with other groups of employees, the Boards – possibly without realizing it – are making important decisions with regard to future industrial peace and union organization within their jurisdictions. Since, in all probability, applications for certification from office employees' unions will increase and since these, in some instances, may involve requests for carving out office employees' units from established and certified industrial units that contain both office and non-office employees, such requests may force the Boards to take a stand on these issues by confronting them with a choice of either to refuse or to approve the applications. If the Boards refuse to carve out office employee units from non-office units, they may hamper the development of office unionism but, if they allow office employees to be carved out of industrial units, the Boards may contribute to industrial friction within their jurisdictions.

Some of the Boards may be faced with this dilemma in the future. It could probably be avoided, though, if all the Boards were to formulate a certification policy of separating all office employees.

Consequently, the writer favours separating office from non-office employees in certification orders because of the lack of community of interest between these two groups, and because such action could possibly prevent the emergence of friction in the future. The Labour Relations Boards that agree upon request to joint certifications of office and non-office employees probably do not recognize sufficiently the importance of the community of interest factor and could be

inviting conflict in industrial relations in the future. Joint certifications, among other effects, may also have an impact on the selection of bargaining agents and on the outcome of strike votes.

## Security Personnel

These represent another category of employees for whom certification practices differ greatly. It is emphasized again that the certification practices of the Labour Relations Boards for such employees can be of great significance in marginal cases; a decision by a Board may determine the chances of the union in gaining certification, and of the employees in gaining a bargaining agent, and may also make the difference of collective bargaining being available or not.

The Canada Labour Relations Board unquestionably grants separate certifications for security guards who are sworn in; but, if the guards are not sworn in, the Board grants separate certification only under certain conditions. These are: (1) if the proposed unit is restricted to security guards and (2) if the guards have police duties and are not charged just with watch-keeping functions.

The importance of the swearing in of security guards (as police officers) as a basis for inclusion or exclusion from bargaining units was actually initiated by the Wartime Labour Relations Board.[33]

In cases where the proposed bargaining units consist of a mixed assortment of guards and other categories of employees, the C.L.R.B. conducts a thorough investigation made along the lines of a special questionnaire headed "Protective Personnel".[34] If the majority of replies to the special questionnaires are in the affirmative, the Board usually classifies the employees concerned as security men and excludes them from a mixed bargaining unit; these guards can obtain separate certification.[35] In other instances, where guards or watchmen are primarily engaged in guarding against trespassers, fire outbreaks and the like, the C.L.R.B. certifies them with other classifications of employees or rejects applications for separate representation.[36] There are also cases of rejections of petitions for separate representation of guards and watchmen where they did not perform police functions.[37]

The C.L.R.B.'s practice of excluding security guards, such as policemen, from mixed bargaining units, probably originated in decisions of the United States National Labor Relations Board,[38] and can also be traced back to decisions of the Wartime Labour Relations Board. For instance, early in 1945, the W.L.R.B. certified the Association of Federal Employees of the Province of Quebec as the bargaining agent for a unit of miscellaneous classifications of employees of the National Harbours Board at Quebec; the chief sergeant, sergeants, and constables, of the police force were excluded from this bargaining unit.

The O.L.R.B. handles the issue of guards in similar fashion; however, the principal difference is in the extent of the discretionary powers vested with each Board. The C.L.R.B. has the discretionary authority to determine or to amend its policies toward the certifications of guards, but the O.L.R.B. has not.

The Ontario Board is governed on the issue of guards by Section 9 of the O.L.R.A.,[39] which is unique in Canada; there is nothing resembling it in any other Canadian labour relations statute. Section 9 was inserted into the Ontario Act in 1950; since then the O.L.R.B. has been excluding guards from units composed of other employees[40] and has been certifying them upon request in seperate units.[41]

The Q.L.R.B. follows similar practices, although it is not required by legislation (as the Ontario Board is) to exclude security guards from certification with other groups of employees; however, the Board does do this and is willing to certify guards in separate units. The Quebec Board believes that, as the guards have no community of interest with industrial workers and they are employees within the meaning of the Act,[42] it has no choice but to certify them separately.[43]

When certifying guards the Q.L.R.B. prefers that they should belong to different union Locals than plant employees, but there are instances where separate certificates have been issued to guards who were in the same union Local as the other plant employees.[44]

At variance with the practices of the three previously mentioned Boards, the B.C.L.R.B. certifies guards with other employees. The Board had a policy however, of excluding guards from industrial units and of certifying them separately.[45] This policy was similar to those followed by the C.L.R.B., the O.L.R.B., and the Q.L.R.B., but, in recent years, the B.C.L.R.B. was reorganized and a new policy adopted that approves the certification of guards with other employees.

At present the B.C.L.R.B. believes that there is no justification for exclusion of guards from industrial units.[46] The soundness of this new policy is questionable in view of the fact that guards have very little in common with other industrial employees; also, since they are employees under the B.C.L.R.A. and thus entitled to certification, it follows that separate certification could be the best method for ensuring their rights to collective bargaining.

Joint certification of guards with non-guards because of the absence of community of interest (as for office and non-office employees) could have an effect on the outcome of votes in areas such as union recognition, contract acceptance, and strikes. For example, how effective a representation could guards expect as a minority group from a bargaining agent who also represents other categories of employees?

The inclusion of guards in the same bargaining unit with other plant employees could work to the detriment of the employer by posing questions of loyalties for the guards. Since, by the nature of their duties, the guards could be in conflict with the interests of other employees in the bargaining unit, the guards might be faced with choosing between loyalty to their employer or loyalty to their union brothers. The employer might not be able to get as good a service from a guard who is included in a large industrial unit as from a guard who is outside such a unit or who is certified in a separate bargaining unit; e.g., some guards are expected to report drunkenness, theft, reckless driving, or equipment running unattended,

and their proper performance of these duties would probably be more difficult if the guards were in the same bargaining unit with other plant employees.

Both the M.L.B. and the A.B.I.R. take a different view on the issue of certification of security guards. These two Boards follow similar policies in that their decisions depend upon the duties actually carried out by the guards. If the guards are doing janitorial rather than patrol duties, they would be included in the bargaining unit with other plant employees; but if the guards, whether sworn in or not, carry firearms and perform police duties, they would be excluded from all certified bargaining units.[47] In effect, such guards in Manitoba and Alberta have no way of securing collective bargaining through certification, and the only way they might achieve collective bargaining with their employers is by obtaining voluntary recognition – which is usually impossible.[48]

Guards, who carry out police functions, have also been excluded from certification with other groups of employees by the Labour Relations Boards of Saskatchewan,[49] Nova Scotia,[50] and New Brunswick.[51] The Boards have never certified guards in separate bargaining units. This is mainly because these Boards have never received such applications but, if they had, the applications would probably have got a favourable reception.[52]

In comparing the various practices in guard certification, the Boards that separate guards from other groups of employees would appear to be following the most desirable course. This policy of recognizing that guards have little community of interest with non-guards has more justification than one of including guards in one bargaining unit with other employees (as in British Columbia) or of a policy of excluding guards from non-guard units while refusing to certify them separately (as in Manitoba or Alberta). It is not suggested that labour relations legislation should be amended to provide separate certification (as in Ontario) but that this objective could probably be achieved through policy changes by some of the Boards.

## Hourly-Paid Employees

Another problem that confronts the Labour Relations Boards from time to time concerns the description of bargaining units. The Boards have to decide whether or not to describe units in terms of the time unit of remuneration; in other words, whether or not to stipulate in certification orders that the employees covered in a bargaining unit are paid by the hour, by the week, or on any other basis. In the past all Boards were willing to describe employees according to the method of compensation though, beginning about 1950, they revised their attitudes on this issue. The shift became necessary because of problems arising in the descriptions of bargaining units. The Boards were confronted with too many instances of employers changing the remuneration of their employees from an hourly pay to a salary as a means of withdrawing some union supporters from bargaining units and, in this way, causing obstacles to certifications.

The present attitudes of the Labour Relations Boards with respect to the description of bargaining units in terms of hourly-paid employees vary among the jurisdictions and are now discussed in detail.

### *The Ontario, Manitoba, Saskatchewan and Canada Labour Relations Boards*

These four Boards at present refuse to describe bargaining units of plant employees in terms of a time unit of remuneration.

The Ontario Labour Court, and the O.L.R.B. in its early days, in many instances used to describe plant units in terms of hourly-paid employees[53] though, since about 1950, the O.L.R.B. has refused to describe units on this basis because of the problems created.[54] The Board stated its position in the reasons for judgment in the 1960 case of Duplate Canada Ltd.[55] when it declared that for more than a decade it had "steadfastly refused to describe bargaining units in terms of hourly-rated employees."

Until 1950, the M.L.B. also used to describe bargaining units in terms of hourly-paid employees but, since then, the Board has refused to differentiate in descriptions of bargaining units. The change came about because of problems (mentioned previously) causing certification obstruction.[56]

The S.L.R.B.,[57] similarly, refuses to describe bargaining units in terms of a time unit of remuneration and has always followed this practice whereas the Ontario and Manitoba Boards began it only in 1950.

The C.L.R.B. has always objected to describing bargaining units on an hourly-paid basis and insists on the enumeration of classifications of employees covered by a certification order.[58]

### *The Quebec Labour Relations Board*

The Quebec Board does not object to the description of bargaining units in terms of hourly-paid employees[59] though, usually, the description of bargaining units depends on the wording of the application for certification. If a union were to apply to be certified for a unit of hourly-paid employees, the Q.L.R.B. would generally certify the unit on this basis, assuming that all the other conditions for certification had been met. In view of the possible interference by employers with such bargaining units, the wisdom of the present Board's usual practice on this issue could be debatable.

### *The Labour Relations Boards of British Columbia, Alberta, Nova Scotia and New Brunswick*

These Boards are very reluctant to describe bargaining units in terms of hourly-paid employees though there have been a few instances recently where they have issued certification orders for hourly-paid employees.[60] This has occurred when the unions requested such units in the certification petitions,[61] but unions now

apply for these units less frequently than they did in the past because of the opportunity it gives to management to interfere with the units. The unions realize that hourly-paid employees can easily be put on salary by management. In effect, this switch can reduce the size of bargaining units and thus affect their chances to gain certification. An example of union recognition of this in British Columbia is that by the United Steelworkers union. In the past, when applying for certification to the B.C.L.R.B., this union usually described units in terms of hourly-rated employees but they now apply for units of all plant employees without referring to the method of rumeneration.[62]

### *Observations — Hourly-Paid Employees*

At present, the Labour Relations Boards in Canada with the exception of the Q.L.R.B., object to the description of certified bargaining units in terms of hourly-paid employees. The principal difference among the various Boards on this issue is the existence of a definite policy against these descriptions in some jurisdictions, – e.g., the O.L.R.B., the M.L.B., the S.L.R.B., and the C.L.R.B., – and not in others. Such distinctions, however, make very little difference in practice. Proof of this is implied by the absence of the term 'hourly-paid employee' from certification orders in recent years.

In view of past problems encountered by the Boards when describing bargaining units in terms of hourly-paid employees, the proper course of action, from the standpoint of industrial relations, would seem to be for the Boards to refrain from describing bargaining units on the basis of employee remuneration.

# 3

# BARGAINING UNITS OF SEASONAL AND PART-TIME EMPLOYEES

The certification status of seasonal and part-time employees is another issue confronting the Labour Relations Boards. They have to decide whether or not seasonal and part-time employees should be certified jointly with regular (full-time) employees. The decisions made in these cases are important since they may affect the unions' chances of gaining certifications. The Boards also have to formulate policies covering the certification status of seasonal and part-time employees and *in effect* decide the self-determination rights of these employees.

## Seasonal Employees[1]

Labour Relations Boards, in all but one jurisdiction,[2] are free of any legislative provisions regarding the certification of seasonal employees and have discretionary authority to decide their certification status. The practices of the Boards vary among the jurisdictions, and these variations are now examined.

### *The Labour Relations Boards of British Columbia, Nova Scotia, New Brunswick and Prince Edward Island*

Interviews and correspondence with executive officers of the Boards of British Columbia,[3] Nova Scotia,[4] New Brunswick,[5] and Prince Edward Island,[6] disclosed that these Boards do not differentiate between seasonal and regular employees and usually certify them jointly.

### *The Manitoba Labour Board*

The M.L.B.[7] does not differentiate between seasonal and regular employees. It is guided by Section 28 of the Manitoba Regulation 12/53, Rules of Procedure and Practice for the Administration of the Labour Relations Act, which specifies that:

> "Affected employees include (a) for the purpose of determining the number of employees who are within a unit or who are members in good standing of a petitioning union, all those employees who on the date when the petition is filed are on the payroll of the employer and within the unit, except:

(i) an employee taken on as a substitute for an employee on vacation leave or other leave of absence or

(ii) an employee who within two weeks immediately prior to such date is taken on for a period of temporary employment not exceeding four weeks."

### *The Quebec Labour Relations Board*

Bylaw No. 1, Section 3, of the regulations governing the Q.L.R.B., stipulates that:

> "For the purpose of determining the representative character of an association, the conditions by which a person may be deemed member of an association [require, among other conditions, that the person has] to regularly hold an employment connected with the normal professional occupations of the employer concerning whom recognition is requested."

This provision in Bylaw No. 1 excludes from a certified bargaining unit any employee who works on a temporary basis. The Board's view on this point was expressed in the case of Dominion Stores Ltd. (Beloeil Stores)[8] when it determined that casual – or temporary – labour was to be excluded from the bargaining unit.

### *The Ontario, Alberta, Saskatchewan and Canada Labour Relations Boards*

These Boards do not follow a consistent policy on whether or not to include seasonal employees in bargaining units with regular employees and seem to lack consistent standards that could be applied in each case. Theoretically, the Boards have three options with respect to seasonal employees:

1. They may certify seasonal employees jointly with regular employees.
2. They may certify seasonal employees separately.
3. They may refuse to certify seasonal employees.

The certification orders issued show that these Boards alternate between options 1. and 2. Their lack of a consistent policy in this respect can best be illustrated by the practices of the S.L.R.B. In a case concerning the University of Saskatchewan[9] the majority of the Board expressed the view that:

> "students are no different from ordinary temporary employees, and the Board has not in the past deemed it proper to exclude temporary employees from any appropriate unit. Collective bargaining in respect to temporary employees, is quite as important as bargaining in respect to permanent employees, from the point of view not only of the temporary employees themselves, but also of the permanent employees, since temporary employees, if not covered by the same agreement as the permanent employees, could conceivably be used to undercut the wages and other conditions which the latter might achieve for themselves."

Another case illustrating a similar view taken by the S.L.R.B. concerned the Estevan Civic Employees' Union, chartered by the Canadian Congress of Labour, Applicant, and the Town of Estevan, a municipal corporation, Respondent,[10] when the Board states that "it would hardly be in order to exclude seasonal employees from a bargaining unit, since to do so would almost completely nullify collective bargaining in many important industries, for example, coal mining." In the case

of the Lloydminster and District Agricultural Co-operative Association Ltd.,[11] however, the majority view of the S.L.R.B. was that "for the purpose of collective bargaining, the unit would be equally appropriate with or without the casual workers."

The policy of the A.B.I.R. has also been inconsistent. In the case of the Adby Employees' Association, Edmonton, Applicant, and Adby Demolition Company Ltd., Edmonton,[12] the A.B.I.R. excluded temporary employees from a bargaining unit of regular employees, while in the case of the Edmonton Exhibition Association[13] the Board included casual, seasonal, and regular employees, in one certified bargaining unit.

The issue of seasonal and casual employees confronting the Labour Relations Boards is especially important in industries such as construction or shipping where, during the year, the number of employees in the labour force fluctuate considerably. The Boards have to decide the dates on which they should entertain applications in order to prevent the issuance of certification orders for groups of employees that are not representative of the *seasonal work force.* In the off-season months a builder may have only a few employees though, for the remainder of the year, he may have several hundred employees. Consequently, if the Board granted a certification order during the *off-season months,* in effect, it would be granting representation rights to a union whose election most of the employees did not vote for.

When confronted with a certification application from an industry with a seasonally fluctuating labour force, what some of the Labour Relations Boards do is illustrated by the practice of the C.L.R.B. The Board would neither grant a certification if there were only a few employees on the company's payroll at the time of application (the bulk of the *seasonal* employees being absent from the company's work force) nor would it formally reject the application, as this would prevent the union from re-applying for certification for six months.[14] But the Board would request the union to file the application again when the work force was at the *normal seasonal level.* Also, the C.L.R.B. has no fixed calendar dates when the union should re-apply, the appropriate date being decided according to the circumstances of the case.[15]

There are instances where the Board issues certificates *in-between seasons* even if a company's work force is not at its full strength.[16] This usually occurs when one union tries to displace another, and when the incumbent union has a collective agreement expiring during the off-season; otherwise, in order to comply with the provisions of Section 7(4) of the I.R.D.I. Act, the only way a new union could apply for certification would be to do it during the *off-season* as the incumbent union could sign a new agreement preventing new unions from applying because of the contract bar.[17]

When dealing with seasonal employees, the practice of the C.L.R.B. has usually been to certify casual employees with regular employees, not making any distinction between these two groups in the certification order. The Board feels

that "such an issue should be ironed out at the bargaining table rather than be decided by the Board." [18] Nevertheless, it has not always been consistent. In some cases, the Board has excluded seasonal employees[19] from bargaining units while, in others, it has specifically included them[20] and, occasionally, has certified them separately.[21]

The O.L.R.B. when dealing with an industry with a seasonally fluctuating work force, such as construction, applies a principle that closely resembles the C.L.R.B. practice.

> "To determine the appropriate time for testing union membership, the Board has developed the 'build-up principle'. Where there is evidence that the work force in the plant is at a low level at the time of the application for certification, and that it will be increased substantially according to a seasonal pattern or a planned hiring schedule, the Board will direct that a representation vote be held when a representative group of employees is at work." [22]

## Part-Time Employees

Labour Relations Boards, when confronted with the certification issue of part-time employees, have to decide whether or not part-time employees are eligible for certification and, if they are, whether or not they should be certified with regular employees. Among the jurisdictions the practices of the Boards vary considerably; some Boards approve while others object to including part-time employees in bargaining units of regular employees. Most Boards (the exceptions being the O.L.R.B. and the N.S.L.R.B.) however, refuse in practice to certify part-time employees in separate bargaining units. Except in the provinces of Quebec, Manitoba, and Prince Edward Island,[23] the Boards are free of legislative restrictions.

If a Board approves the certification of part-time employees, it still has to answer the question as to when a part-time employee is eligible for certification.

The following decision by the Quebec Board, which dealt with the case of Dominion Stores, Ltd., Beloeil Store,[24] is a good illustration of the problems involved. To accord with Quebec legislation, the Board had first to decide when a part-time employee is deemed to be *regularly employed*, and expressed the view that:

> "This is a question of fact to be determined in each instance in the light of the particular circumstances of the case, and is not always an easy task. It is a particularly difficult task in the case of employees who, due to the nature of the employer's business and the manner in which he operates it, are never called upon to do more than part-time work, and yet are called upon to do this work regularly, week in and week out, on a more or less permanent basis. [The Board was of the opinion that] part-time employees do not share the same community of interests in the field of industrial relations as their fellow-employees who work full-time, and whose economic future is much more intimately and seriously tied to the employer and his business [and contended that] it is not desirable to include in the bargaining unit part-time employees who work less than a certain number of hours per week, even if they work these hours regularly, but the question is, how many hours? In other words, where should the line be drawn? Does the 24-hour rule still have merit or should it be modified?"

Moreover, it was on record that, in the past, the Board had often:

> "adopted as a working rule, and subject to exceptions where the circumstances require it, that employees who work less than 24 hours per week are to be considered as not regular employees, and are thus excluded from the bargaining unit. This so-called rule or standard was based upon the fact that 24 hours per week represented half of what was then the regular 48 hours work week [and the Board decided that] the 24 hour rule has outlived its usefulness and must be modified accordingly. Today, industrial working force works as a general rule no more than a 40 hour week [and that] half of that amount, that is 20 hours per week, would be proper in the great majority of cases as a standard to be adopted and should therefore be applied to the solution of this problem, save where in any particular instance there may be compelling reasons to the contrary."

The Board was aware that, in deciding upon 20 hours per week as a standard, it had made an arbitrary choice but felt that it was:

> "in the public interest that this standard be adopted and followed for the better administration of the Act, save in those exceptional cases where it would be manifestly unfair to apply it [and decided that] the part-time employees in the employ of the Company who regularly work no less than 20 hours per week, are entitled to be included in the bargaining unit."

### *The Quebec, Alberta, Saskatchewan, New Brunswick and Canada Labour Relations Boards*

Although the attitudes of these Boards depend upon the circumstances of each case and they sometimes certify part-time and full-time employees jointly, the Boards never certify part-time employees separately.

The Q.L.R.B. usually distinguishes between part-time employees that work on a regular basis, and those that do not. Part-time employees that work regularly are usually included in bargaining units with full-time employees while temporary part-time emloyees are not; and part-time employees that are excluded from certification with full-time employees are never certified separately.

Whether or not the Q.L.R.B. will exclude part-time employees from the description of a unit usually depends on the wording of the application for certification, and on the attitude of the employer. There are instances where the description of the certified unit might read 'all hourly employees of Company X' and, although such a unit might contain part-time employees, the Q.L.R.B. would not exclude them unless specifically requested to do so by one of the parties – and then the part-time employees excluded would have to be the ones that work only on a temporary basis.[25]

The C.L.R.B., also, gives considerable weight to the question of regularity of employment of part-time employees but, unlike the Q.L.R.B., follows a practice of never making any reference to part-time employees in the certification orders. The Board expects this issue to be settled at the bargaining tables by the parties themselves.[26] At times, however, the C.L.R.B. refers to part-time employees during the certification proceedings, this being done to determine who are the eligible voters necessary for deciding the union's majority. In such instances the Board might include in a bargaining unit of full-time employees those part-time

employees that worked for an average of 20 hours or more a week during the two pay periods immediately prior to the date of the application for certification.[27] Like the Q.L.R.B., the C.L.R.B. never certifies part-time employees in separate units.

Although the A.B.I.R. and the S.L.R.B. exclude part-time employees from units of full-time employees[28] in some cases, and include them in others,[29] they are not always doing this for the same reasons as the Q.L.R.B. and the C.L.R.B., who are mainly concerned with whether or not part-time employees are regularly employed. The A.B.I.R. and the S.L.R.B. are usually guided by unions' requests in the certification applications.[30] The A.B.I.R. is also concerned with the employers' reactions; [31] such concern is not evident in S.L.R.B. certification decisions. In cases of exclusion of part-time employees from certification with full-time employees, the A.B.I.R. and the S.L.R.B. will not certify part-time employees in separate bargaining units.

Although the N.B.L.R.B., similarly, sometimes separates part-time from full-time employees, it is "very reluctant to carve out . . . part-time employees from any unit; however, it will go along with the usual exception or 'persons regularly employed less than 24 hours per week'." [32] This Board, also, never certifies a unit of part-time employees separately.[33] A certification order of 1961 illustrates the Board's exclusion of part-time employees from bargaining units composed of regular employees.[34]

### *The Labour Relations Boards of British Columbia and Manitoba*

These two Boards do *not* differentiate between part-time and full-time employees and refuse to exclude part-time employees from units of full-time employees — unlike those Boards discussed in the foregoing section.

An example of this in Manitoba is the case of Dominion Stores Ltd.[35] The facts of this case are as follows:

> "On September 4th., 1958, the Applicant Union filed an application seeking certification as bargaining agent for all the employees of the employer except the Bakery Production Department, Meat Department, Office Staff, Store Manager, and Officials above the rank of Store Manager;
>
> On September 10th., 1958, the Employer filed its return and proposed the exclusion of persons classified as 'operators', *persons employed for less than 24 hours per week*, and students employed during school vacation periods;"

After consideration of material presented by the parties, the M.L.B. ruled:

> "the appropriate bargaining unit to be all employees except office staff, foremen, those excluded by the Act and those covered by Certificate No. MLB-701 issued to Local 389, Bakery and Confectionery Workers International Union of America, and those covered by Certificate No. MLB-708 issued to the Winnipeg Meat Cutters Local 415;"

The Board, in determining the "affected employees" in the appropriate bargaining unit as designated, included:

"1. the full-time employees,
2. the subsidiary work force which handles peak periods which characteristically recur on a pattern and which work force consists of persons who, week by week, look to the Employer as a substantive employment provider."

In certifying part-time employees the M.L.B. is also guided by Section 28 of the Manitoba Regulation 12/53, Rules of Procedure and Practice for the Administration of the Labour Relations Act, which stipulates that:

"Affected Employee includes an employee who works on a regular schedule week by week, irrespective of the number of hours worked in each week."

The practices of the Boards in not differentiating between part-time and full-time employees in the certifications have their consequences on the timing of applications. For instance, in British Columbia, trade unions in applying for certification of chain store employees usually do this between a Monday and a Thursday, when for the most part full-time employees are working, instead of on a Friday or a Saturday, when many part-time employees are present. For purposes of determining union support, the inclusion of part-time employees in the proposed bargaining unit would make it harder for the unions to obtain the necessary majority for certification.

The wisdom of not separating, for purposes of certification, part-time from full-time employees is very questionable because of the frequent lack of community of interest between the two groups. Differences in interests and motivations usually demonstrate themselves at time of collective bargaining, industrial friction, or strike voting, when the attitudes, demands, and desires, of the two groups are not homogeneous. For instance, part-time employees included in a bargaining unit of full-time employees have voting powers similar to the latter but, usually, the part-time employees do not depend on their work to the same extent as the full-time employees do for their livelihood. Consequently, the part-time employees could at times, vote in a manner detrimental to the full-time employees; e.g., they might vote for a strike when the full-time employees were against it, or they might approve a management contract proposal that was unacceptable to the full-time employees.

### *The Labour Relations Boards of Ontario and Prince Edward Island*

These Boards differentiate between part-time and full-time employees and always exclude part-time employees[36] – i.e., those who are regularly employed for less than 24 hours a week – from certification with full-time employees. The Boards differ, however, with regard to separate certifications of part-time employees.

The O.L.R.B. is prepared to consider the separate certification of part-time employees[37] but the P.E.I.L.R.B. has never certified part-time employees separately since it is not permitted to do so under the P.E.I.L.R.A. Clause (iv) of Section 1 of the Act which stipulates that an employee does *not* include "persons not regularly

employed more than 24 hours per week, or students employed during summer vacations."

### *The Nova Scotia Labour Relations Board*

The Board is also willing to certify part-time employees in separate bargaining units;[38] however, in Nova Scotia such certifications are not common. The N.S.L.R.B. has no consistent certification policy of excluding part-time employees – regularly employed for less than 24 hours a week – from full-time employees. The N.S.L.R.B. attitude on this subject is usually governed by the unions' demands in certification applications and employers' reactions to these.[39] Consequently, at times, the N.S.L.R.B. certifies bargaining units composed only of full-time employees[40] and, in other cases, it certifies part-time employees with full-time employees.[41]

## Observations

Whether or not seasonal and part-time employees should be excluded from units of full-time employees, and whether or not they should be certified separately, are not simple issues. Differences in attitudes about wages, in hours of work, in the degree of dependence on the particular employment, and in seniority regulations, are valid points that tend to lead to the conflict of interests in various circumstances between seasonal and part-time employees, on the one hand, and regular (full-time) employees, on the other. It may also be claimed that when it comes to the question of a strike vote the attitudes of seasonal and part-time employees will not be the same as those of regular employees and, because of these divergent interests, the separation of the two groups could be justified.

Such separation, however, may mean that seasonal and part-time employees would not have an opportunity to participate in collective bargaining. This might be as important as bargaining for full-time employees since seasonal and part-time employees, if not covered by a collective agreement, could conceivably be used to undercut the wages and other conditions that full-time employees might have achieved for themselves.

It is the writer's view that part-time employees who are regularly employed for less than 20 hours a week (half of the working week) and, possibly, summer students, should be certified separately; and that seasonal employees who are taken on for at least a month, except temporary employees taken on as substitutes for employees on vacation leave or other leave of absence, should be certified with full-time employees.[42]

The Boards, however, should not follow, a rigid policy on this issue for, when it comes to determining the composition of bargaining units, a certain amount of flexibility should be apparent. In some instances, where there are only a few seasonal or part-time employees in an establishment and where they want to join the other employees, it might be advisable to certify them jointly with full-time

employees but, in others, where the divergence of interests is too great, it might be better for certification purposes to separate these two groups.

An examination of the certification practices of the Labour Relations Boards has shown that while some Boards separate seasonal and part-time employees from full-time employees, some Boards do not and yet other Boards have no consistent policy on this subject. It seems that the major drawback to the existing situation for seasonal and part-time employees (especially part-time employees) is that they cannot get separate certification in all of the jurisdictions – the exceptions being Ontario and Nova Scotia.

What seems to be needed in this area is a clear enunciation of certification principles by Labour Relations Boards with respect to certification of seasonal and part-time employees – something similar to the outline of policy as set out on this issue by the United States National Labor Relations Board.

# 4

## BARGAINING UNITS IN THE CONSTRUCTION INDUSTRY

In this chapter special attention is devoted to problems peculiar to the certification practices in the construction industry and related policies evolved by the Labour Relations Boards.

Until a few years ago the Boards tended to treat construction certification applications similarly to those received from the manufacturing sector. It has been stated by Woods that:

> "Policy has failed to recognize the peculiar nature of the construction industry, it has tried to establish bargaining on the unstable basis of a unit which is bound to disappear." [1]

For a long time some Boards failed to realize the distinct difference between employer and employee relationships in manufacturing and construction. The manufacturing bargaining unit is relatively stable; there is a degree of permanency in the employer-employee relationship and the union remains the employee representative almost indefinitely (unless another competing union wins the support of the workers in the unit and thus displaces the existing union or, as is possible under Ontario jurisdiction, the workers demand the revocation of the bargaining rights of the incumbent union).[2] There is no such permanency of the employer employee relationship in the construction industry for there is no recognizable 'permanent' group of employees. The life of each construction project is short, and the numbers of personnel on the payroll change continually, as well as the sites of work, the nature of operations, the trades and skills involved, and the number of employers concerned either as contractors, sub-contractors, or specialty prime contractors.[3]

The nature of the construction industry was well described by Dunlop, an authority on industrial relations in the industry.[4]

> "Place of employment continually shifts, with no two situations identical, jobs at any one site are usually of quite limited duration. Contractors are continuously in the process of creating or liquidating job organizations and working crews, except for a limited number of key personnel. Job opportunities vary a great deal both seasonally and geographically, and large parts of the work force are able to move about within localities and even between areas."

Consequently, the type of bargaining unit suitable for the construction industry is different from that of most other industries.

The Labour Relations Board, except for the O.L.R.B., have broad discretionary powers to determine the appropriateness of such a bargaining unit from among a number of alternatives, these usually being: a single-employer project unit, an area unit, or a province- or territory-wide unit, and a unit could include either employees of a particular craft or all employees of one employer — thus following the pattern of unit certifications in manufacturing. Except for the Q.L.R.B., the P.E.I.L.R.B., and the M.L.B. in a few cases, the Boards usually follow the traditional method of bargaining that exists in the construction industry and grant construction certification orders to individual crafts.

A single-employer *project* certification order confines the employees to a particular project; a single-employer *area*-, *province*-, or *territory*-wide certification order embraces all employees within a localized geographical area defined in the order, or in the province or in the territory in question. Of these, the construction project certification order is the only one that resembles the certified bargaining unit in manufacturing. In principle it is very similar to a certified bargaining unit in the single manufacturing plant. Whereas the single plant bargaining unit meets the needs of the manufacturing industry because the place of work is constant, the project bargaining unit does not satisfy the requirements of the construction industry because the place of work is continually shifting. Some Boards (e.g., the B.C.L.R.B.) realized this a long time ago but others (e.g., the O.L.R.B.) it seems, became aware of this only a few years ago.

W. H. Sands, Deputy Minister of Labour, British Columbia, has objected to project certifications on the following grounds:

> "In the first instance, it was not uncommon for a project to be completed by the time the certificate was issued. Secondly, it was necessary for the union to submit a new application for certification each time the employer started a new project. Therefore, on occasions a trade-union would submit several applications to be certified for employees of one employer within a relatively short period, upon the strength of the same union members . . . . Such certificates were completely unrealistic, for they were not in keeping with normal collective bargaining practices, in that no construction union signed agreements with contractors applicable only to employees upon a specific project. From an administrative point of view, it entailed a great deal of work which, in the final analysis, was unnecessary." [5]

Bargaining units for an area, or a province or territory, are much better suited to the requirements of the construction industry than project units, since the former give a certain degree of stability and continuity to the collective bargaining process. This still applies even if the construction projects are of short duration and the workers are continually being transferred from one project to another of an employer.

The advantages of area certifications were recognized some years ago by the B.C.L.R.B. Sands[6] expressed the opinion in 1961 that area-wide certifications in British Columbia:

> (1) have contributed greatly to stability in labour-management relations in the construction industry; (2) have eliminated jurisdictional disputes between locals of the same international; (3) have lessened the incidence of jurisdictional disputes between unions of different trades; (4) have discouraged the intrusion of unions not compatible with construction; and (5) have promoted uniformity of wages and working conditions throughout the province."

A problem common to most Labour Relations Boards concerns the proper description of bargaining units in the construction industry. This issue is of great significance, since certifications in most jurisdictions are granted on the basis of crafts, and an improper description could lead to jurisdictional friction among the unions.

In the description of bargaining units, technological progress, and the resulting emergence of new construction crafts, make the work of the Labour Relations Boards very difficult. Some Boards in the past have encountered situations where each construction trade union tried to add more and more classifications of employees to their bargaining units. An example of this was the action of the labourers' union in British Columbia that, at one time, tried to add scaffolding labourers to their certified bargaining units. When the painters' and carpenters' unions noticed this, they objected strongly, and the B.C.L.R.B. was faced with jurisdictional conflicts[7] that it was not willing to resolve.[8] To settle the controversy surrounding the description of these bargaining units and to help stay clear of jurisdictional conflict, the Board decided on a unique course of action,[9] which may yet serve as a future model for other Labour Relations Boards. On December 18th, 1959, the Registrar of the B.C.L.R.B. sent out a letter to all interested parties[10] and suggested a solution to the problem by having the bargaining units described according to a master list, which was enclosed with the letter. Eventually, the industry accepted a *modified* master list in which each craft seeking certification was described according to the classifications of employees instead of by the work they did. Now this modified list for the construction industry is used as a guide by the Registrar of the B.C.L.R.B. From the master list, the Registrar notes on every application for certification what is the appropriate bargaining unit and, if necessary, the description of the bargaining units in each application is modified to match the list.[11]

## The British Columbia Labour Relations Board

This Board now issues province-wide certifications to multi-union locals in the construction industry, but the emergence of these craft bargaining units is relatively recent.

When the Board first issued certification orders, it favoured project certifications. Sands attributed this early project certification practice[12] to the fact that:

> "trade-unions pertaining to the construction industry were relatively small in British Columbia. Employers in the construction industry were correspondingly small, and usually confined their activities to the urban areas within which they were located.[13] [Sands said also] that project certifications proved to be very unsatisfactory."[14]

(for reasons already mentioned) and, in view of this, the B.C.L.R.B. discontinued the granting of project certifications.

Following the termination of such certifications, the next step was for trade unions to apply for certification of members in their respective crafts within the city or general area where the operations of the employer were located.[15] An example of such a certification is the certificate issued in 1957 to the United Brotherhood of Carpenters and Joiners of America, Local 1998, AFL, for employees of the Cariboo Construction Company Ltd. employed as carpenters in and around the city of Prince George.[16]

Eventually, even city area certifications proved impractical. As the post-war boom got into full swing, contractors increased the scope of their activities due to the hydro-electric and industrial construction outside the urban areas. There was:

> "a corresponding increase in the field of union organization. As trade-unions grew in size and strength, they began to assert themselves over an ever-widening sphere. To curb this, and to avoid conflict among their member locals, certain internationals assigned to their locals a designated geographical area within which they could organize.[17] [Consequently] it has become the practice of construction unions to apply to be certified for members of their respective crafts employed throughout the geographical area for which they have been assigned, or have assumed jurisdiction." [18]

and the Board received such applications[19] favourably.

A few locals from the same union next sought joint certification. The Board approved of these applications and granted certification orders. An example of one of the many instances is the case of Alexander Browning Ltd.[20] Eventually the B.C.L.R.B. granted province-wide certification orders to construction unions, and an example is the case of Poole Construction Co. Ltd.[21]

Although the B.C.L.R.B. now certifies all B.C. locals of any construction craft union on one certificate[22] nevertheless, in some circumstances, the Board will:

> "still give favourable consideration to an application by a construction union to be certified for employees at a particular locality, or even upon a specific project. However, applications for such certificates are few and far between." [23]

According to Sands, this evolution to craft area-or province-wide units can be attributed to labour relations legislation in British Columbia as the statutes administered by the Board contain provisions that encourage applications for area certificates:[24]

> "The Industrial Conciliation and Arbitration Act of 1947 provided that an agreement between an employer and a trade-union was a collective agreement, only if the trade-union signatory to the agreement was certified for employees of the employer. Also, that a collective agreement was binding upon only those employees in the unit for which the union had been certified. As a consequence, if a union was certified for employees upon a specific project or at a particular locality, the resulting agreement was a collective agreement only insofar as it related to the employees upon the project or at the locality specified in the certificate, even though the agreement was not so restricted by its terms. Therefore, the agreement had no legal status with respect to employees other than those for whom the union was certified. The Labour Relations Act of 1954 removed the requirement that the trade-union must be certified before its agreement could be considered a collective agreement." [25]

In dealing with this aspect, Sands went on to express the view that the Board's present policy of certifying area-wide units:

> "will hasten the day when the ultimate in labour-management relations within the construction industry will be achieved, namely, the joint negotiation of a single master agreement to which all construction unions, and all major employers in the construction industry, will subscribe." [26]

## The Canada Labour Relations Board

This Board, which has under its jurisdiction the construction industry in the Yukon and Northwest Territories, approves of project, area-, and territory-wide, bargaining units. To illustrate: in the case of Poole Construction Company, crane operators were certified for a specific project;[27] a limited area certification was granted to the United Brotherhood of Carpenters and Joiners of America, Local Union 2499, "on behalf of a unit of carpenters employed by General Enterprises Limited, working in and out of Whitehorse;" [28] and a territory-wide certification was granted to the "International Association of Bridge, Structural and Ornamental Iron Workers, Local 720, "on behalf of a unit of iron workers employed in the Northwest Territories by the Wannix Company Limited, Calgary, Alta." [29]

An examination of the construction certification orders indicates that the C.L.R.B. grants project certificates when the projects are large and of a long-run nature but, in cases of a company working in a particular area on many smaller short-run projects, the Board grants area certifications.

## The Labour Relations Boards of Quebec and Manitoba

The Q.L.R.B. has granted relatively few construction certification orders up to the present, for the construction unions and syndicates have rarely asked the Q.L.R.B. for bargaining certificates. In practice, however, the Board has recognized the essential difference between this industry and others; it appears to have acted informally on the assumption that certification was not suited to the construction industry,[30] and it has not granted bargaining certificates:

> "except in those trades where the employer-employee relationship was relatively stable and where a shop was involved, as in the case of the plumbers, the electricians or the tile and terrazzo workers; and in these cases the certificate was granted on a single-employer basis." [31]

The certification orders that the Q.L.R.B. has occasionally issued to the construction industry varied considerably in their description of bargaining units; some were for project units, and others were for area or even province-wide units. Many of the certificates were also for units consisting of all the employees of an employer rather than for units distinguishing among crafts, as in the practices of the Ontario Board and other Boards.

This development in Quebec can be attributed to the structure of the trade-union movement, which is split into two groups – the National Syndicates and the international unions.[32]

> "For historical reasons, the National Syndicates have developed alongside the local branches of the international unions. In the construction industry the two groups claim an approximately equal membership throughout the province, the international unions having a stronger foothold in Montreal, and the Syndicates in the rest of the province. The Syndicates are organized on a trade basis in Montreal and in Quebec City, with a building trades council bargaining on behalf of most of them. In the less populated area the syndicates have developed on an industrial basis, with all the trades belonging to one single construction syndicate." [33]

Some examples of the varied certifications by the Q.L.R.B. are: the Foundation Co. of Canada — a project certification;[34] the Pentagon Construction Co. — a certification describing the bargaining unit in terms of "territorial jurisdiction of a construction decree;" [35] the Canadian Comstock Co. Ltd. — a certification that covered all craft construction employees engaged by the company.[36]

The description most commonly applied by the Q.L.R.B. to construction employees covered by a certification order is "all wage earners within the meaning of the Labour Relations Act" [37] and this description in terms of all wage earners (or all craftsmen) creates a variety of problems. Originally, when the Board described construction employees on this basis, it intended the certificate to cover a particular area or project of a construction firm's operation.[38] The Board's lack of experience with certification of these units was probably responsible for these descriptions. Although the Board recognized the essential difference between the construction and manufacturing industries, in issuing certification orders for the construction industry in practice these units were nevertheless described in a manner more suitable to those of the manufacturing industry.

Perhaps the Q.L.R.B. believed that construction firms would confine their operations to projects within particular areas and, in such events, no difficulties were foreseen. Yet, when firms expanded their operations to various parts of the province, the union concerned (which held a certification order covering *all wage earners* in the company in a particular craft) automatically tried to act as the bargaining agent in *any* project in *any* area regardless of which labour organization controlled the labour supply there.

These developments led to jurisdictional conflict between the international unions — strong in the Montreal area — and the National Syndicates — strong in the remaining area of the province — and made the Board realize that its description of construction units (patterned on those in manufacturing) was not suitable for the construction industry.

This realization has confronted the Board with the new problem of what should the appropriate construction unit be for bargaining in Quebec. So far, the Board has not reached any decision on this issue. Before it does, the Board will have to decide questions such as whether or not to certify units on a craft basis, and whether or not to include all employees of a construction firm in one unit. In all probability the Board will also have to take into account the structure of union organization in the construction industry in Quebec. The Board might have to adopt a mixed policy of certifying craft units in cases of applications from international unions and from the syndicates in Montreal and Quebec City

(where the syndicates are organized on a trade basis) and of certifying all-employee units in other areas of the province (where the syndicates have developed on an industrial basis). Because the structure of the trade union movement in Quebec is different from that of any other province, the Q.L.R.B. wil not be able to rely on the experience of the other Boards in finding a solution.

At present, however, the main problem confronting the Q.L.R.B. is not the type or composition of the unit but the scope or outer boundaries and, in this aspect, the Board can learn a great deal from the practices of the other Boards. The Q.L.R.B. will have to make decisions on whether or not to certify project, province-wide, or area, bargaining units. Since experience gained by the other Boards has indicated that project units are not suitable for construction, and since province-wide units in Quebec lead to jurisdictional conflict between the unions, this leaves the *area* unit as the logical choice for the Q.L.R.B. But this, in turn, poses a problem as to the size of the area that should be defined in the certification order. In some instances the Board adopted the areas that were covered in construction decrees under the Collective Agreement Act and a case in point was Pentagon Construction, mentioned previously. However, the Board discovered that these areas were not the most suitable for describing construction bargaining units since the "decree areas" are out of date, and they do not always correspond to the boundaries of collective bargaining relationships within a particular region; in some instances, these areas also overlapped the jurisdictional boundaries of the syndicates and international unions.[39]

The M.L.B., similar to the Q.L.R.B., has had little experience with certification of construction bargaining units for, until five years ago, the Board seldom received certification applications from the industry. There was little demand for certification, since the craft unions were well established in the province and were recognized on a voluntary basis by most firms in the construction industry and by the Builders' Exchanges. Even at present, the construction unions do not hold certification orders for most of the employees for whom they act as bargaining agents with the Builders' Exchanges.[40] The need for certification arose when new firms that did not voluntarily recognize the construction unions began operating in Manitoba.[41]

So far the M.L.B. has not arrived at a uniform policy on the scope of an appropriate construction unit for bargaining. Some construction certification orders have been issued on a craft-project basis, others on a craft-area basis, and others have described the bargaining units in terms of all craft employees of an employer; these latter have been interpreted by unions and employers, though not by the Board, as province-wide in scope. There have also been instances of the Board certifying on the basis of an all-employee unit, rather than certifying each craft separately.

An example of a craft project certification is the case of the Pearson Construction Co.,[42] and an example of a project certification is the case of Grand Rapids Ltd.[43] The main difference between the two is that the former was a

project certification on a craft basis, whereas the latter was an all-employee project unit with three unions jointly certified to represent all employees on the particular project.

An example of an area certification — of which only two certificates were issued by the M.L.B. up to May 1963[44] — is the case of R. Litz & Sons Company Ltd.[45]

A common description of construction bargaining units used by the M.L.B. is in terms of various craft employees engaged on a company-wide basis. The use of such descriptions can be traced back to the Manitoba War-time Labour Relations Board and an example is the certification order issued in the case of Kunmen-Shipman Electric Ltd.[46]

Construction certification orders issued most frequently by the M.L.S. have been in terms of crafts but, in some instances, the Board has issued orders in terms of industrial all-employee units. A case in point concerns The MacDonald Bros. Sheet Metal & Roofing Co. Ltd.[47]

In the construction industry in Manitoba, craft, project, or craft company-wide units, have been most commonly certified while area-wide units have seldom been certified — so far there have only been two. In the past this situation was not too important as the number of certification applications were relatively small but, with an increase in certification petitions, it may become more significant for the future.

On the basis of developments in other provinces, it seems that the M.L.B. will eventually have no choice but to formulate a consistent policy as to what constitutes an appropriate bargaining unit in the construction industry, and it is doubtful if the unit arrived at will be the project or company-wide unit, as presently defined.

## The Ontario Labour Relations Board

The Board is not permitted by law to grant project certifications, so now grants only area certifications. This particular legislation was enacted in 1962 following recommendations of the Royal Commission on Labour Management Relations in the Construction Industry.[49]

Before this, when certification legislation was first enacted in Ontario, the construction unions were not interested in using the existing provisions and applied to the Board to be excluded from coverage.[50] At first the O.L.R.B. complied with these requests but eventually changed its policy; the Board then decided that its authority extended to the construction industry and started to issue certification orders At that time, the Board's policy was to certify either area or project units, depending upon various factors. This was well summarized in the Report of the Royal Commission on Labour Management Relations in the Construction Industry: [51]

> " i. Where an application relates to the employees of an employer at the place of 'residence' of the employer (whether head office or branch office), the appropriate unit is an area unit, that is, the employees on all projects of the employer in the given area will be included in the unit.

ii. Where an application relates to the employees of an employer at a place other than the residence of the employer, and where the employer has not previously engaged in construction in the area in which the project is located, the appropriate unit is normally a project unit.

iii. Where the union asks for an area unit in a situation where it would only be entitled to a project unit, and the employer agrees that the appropriate unit is an area unit, the Board will usually grant an area unit.

iv. Where an application related to the employees of an employer at a place other than the residence of the employer, and where the employer has previously engaged in construction in the area in which the project presently under construction is located, the appropriate unit is an area unit.

v. Where in the situation outlined in iv. above, the union in its application asks for a project unit, the Board will usually grant a project unit certificate."

In defining the geographical boundaries in case of area certification, the Board usually followed the geographical patterns already set by previous bargaining between the applicant locals and employers bound to them by collective agreements. When there were no such precedents, the Board was influenced by requests of the parties concerned and took into consideration the areas of operation and types of work usually done by the respondent contractors. A Town(s), Township(s), or County(ies), were the areas usually determined as appropriate by the Board, or "at or working out of a specified town or city."

Some typical examples of area certifications follow. In the case of Ottawa Tile and Marble Ltd., the O.L.R.B. described the bargaining unit in terms of employees working at or out of Ottawa;[52] in the case of Joseph Gollob Co., the O.L.R.B. granted certification on a county basis;[53] and in the case of Thadde C. Taillefer Co., the O.L.R.B. stipulated a radius of 35 miles from Sudbury.[54] Area certification orders covering a province-wide operation of a company has been granted occasionally by the Board. An example of where the Board has suggested such a unit is the case of the United Construction Workers, Local 471, CCL, Applicant, and the Hydro-Electric Power Commission, Respondent, October 14, 1952.[55]

Before 1962, the O.L.R.B. quite frequently certified project units and one such example is the case of Anglin Norcross Ontario Ltd.,[56] but this practice was strongly criticized in various quarters and eventually led to the enactment of legislation in 1962 that does not allow project units to be certified in Ontario.[57]

## The Labour Relations Boards of Alberta, Saskatchewan, Nova Scotia and New Brunswick

The Boards of Alberta, Saskatchewan, Nova Scotia, and New Brunswick, all favour the certification of area-wide bargaining units in the construction industry. Nevertheless, there are some variations in the attitudes of these Boards: some approve area certifications only (e.g., the N.B.L.R.B.) while others approve province-wide certifications also (e.g., the S.L.R.B., the A.B.I.R., and the N.S.L.R.B.).

The Alberta Board of Industrial Relations received few certification applications from the construction industry until five years ago though, recently, the situation

has changed. The construction unions are no longer satisfied with the voluntary recognition they had experienced in the past and now request certification, which gives them a measure of security. The Board now defines the scope of the certified bargaining unit in terms of area, which usually covers the jurisdiction boundaries of the local applying for certification. In some instances, where a construction union has only one local in the province (e.g., the Alberta Boilermakers Local 146 and the Construction Operating Engineers Local 955) the certification orders issued are province-wide in scope. Project certification are never issued by the Board.[58]

Although certifications granted on a craft basis by the A.B.I.R. cover only employees within a particular local's jurisdiction, this condition is usually not specified in the description of the bargaining unit on the certification orders. In practice, however, the locals are prevented from stepping out of their jurisdictional boundaries by internal union agreements that govern the geographical jurisdiction of each local.[59] The A.B.I.R. usually defines a bargaining unit as covering all employees of a particular craft in the firm.[60]

The Saskatchewan Board defines the scope of bargaining units either on an area or province-wide basis for the construction industry. Some exceptional cases of project certifications have occurred for specialized construction job (e.g., the erection of radar stations) but, in general, project certifications are very rare in Saskatchewan. All certifications, however, are on a craft basis, and the practice of the S.L.R.B. is to certify a province-wide unit where the applicant union has only one local in the province, (e.g., the Operating Engineers and Iron Workers) and an area-wide unit where a construction union has more than one local in the province.

In the past, the Saskatchewan Board encountered a great deal of opposition to province-wide certifications from the construction firms. Many employers claimed that if they had only one project in Saskatchewan and, after completing it, had left the province to come back twenty years later to another part of the province, they would still have to deal with the same union.[61] It seems, however, that the S.L.R.B. does not take this argument too seriously, since it still continues to issue province-wide certifications to the Operating Engineers and Iron Workers. With respect to other construction unions, the S.L.R.B. issues area certifications that vary considerably; e.g., in some certification orders the areas cover only one city or anywhere from a 20- to a 100-mile radius from the city, or the area may cover the jurisdictional boundaries of a local or be described in terms of the 49 to 51, or 51 to 53, parallels. Usually, the area that the Board approves as appropriate depends on the certification application, and the unions are granted what they request in terms of area if it is within the jurisdiction of their local.[62]

Examples illustrating bargaining units certified by the S.L.R.B. are: the Utah Company of the Americas – a project certification;[63] Dominion Structural Steel Ltd. – a province-wide certification;[64] and area bargaining units that are defined on a city basis,[65] or according to boundaries of the locals,[66] or in terms of geographical parallels[67] or a radius in miles.[68]

The Nova Scotia Board has received few applications for certification from the construction industry. The reason for this is probably the long tradition of collective bargaining based on voluntary recognition by the Nova Scotia construction industry under the domination of strong craft unions. So far, the unions have not required certification to gain recognition, but this might change in the future with the growth of the industry and with new firms that might not be willing to grant voluntary recognition.

Certification orders issued by the Nova Scotia Board up to the present have only been granted to construction operating engineers, and the Board has usually granted these certifications on an area of province-wide basis. The Board's practice has been to approve province-wide bargaining units only where the employer has two projects widely separated from each other. Possible mobility of labour between two projects could probably explain this. *In effect*, province-wide certification in Nova Scotia means joint certification in only two areas – the Halifax and the Sydney regions – where most of the construction activity is concentrated.

There have been some instances of the Nova Scotia Board certifying operating engineers on a project basis, but this has usually been done only where the certification applications were not contested; if they had been, the Board would probably have approved bargaining units covering a wider area. This would be in line with its usual certification policy that favours area and province-wide certifications but does not encourage project certification.[69] Examples illustrating the three types of certification orders for operating engineers in the Nova Scotia construction industry[70] are: the Cape Tidewater Co. – a project certification;[71] Cameron Contracting Ltd. – a province-wide certification;[72] and Standard Paving Maritime Ltd. – an area-wide certification.[73]

The scope of the bargaining unit usually selected by the New Brunswick Board for the construction industry is the craft area unit.[74] The common description of such a unit is in terms of a fifteen-mile radius from a County Court House or Post Office. There have been a few instances of craft project certifications but the Board has no specific rule on this issue and "is reluctant to certify project units since the certification dies when the project is completed."[75]

## The Prince Edward Island Labour Relations Board

This Board has a policy of certifying bargaining units in the construction industry on a province-wide basis[76] – quite understandable in view of the size of the province. However, the composition of the unit is not confined to particular crafts – as in most other provinces – but sometimes embraces all the employees of an employer.

An example illustrating the province-wide, all-employee, certified bargaining unit is the certification in April 1963 by the P.E.I.L.R.B. of the Local Union 721-C, International Union of Operating Engineers, "as sole bargaining agent for the unit of employees of Northern Construction Company and J. W. Stewart Ltd.,

consisting of all employees other than superintendent, those above the rank of superintendent, and all office employees."

## Observations

Significant differences occur among the practices of the various Boards on this issue; some Boards will certify project units, while others will not, but they will certify only area or province-wide units. Because of the nature of the construction industry, it seems that project certifications are mostly unsuited to it. The chief reasons appear to be the short duration of most projects and the continual changes in places of employment between one locality and another, or even between one area and another. Instances where only project certifications might be considered, would be in those of large and lengthy projects, e.g., Expo 1967.

Project certifications in the construction industry have many shortcomings, so that their emergence —especially in the early years of the Labour Relations Boards in Canada — can be attributed to the fact that the Boards had no previous experience with the industry. The Boards applied the same certification principle to the construction industry as they did to manufacturing — namely, the concept of the single-location bargaining unit. Since then, most Boards have learned the drawbacks of project certifications and have recognized the uniqueness of the construction industry.

Similarly, this distinct nature of the construction industry has been recognized by some legislatures. Specific certification provisions to cover the industry were enacted in Ontario in 1962 and in Quebec in 1964.

Quite apart from the need to develop dialogues on various aspects of certification between the Labour Relations Boards, it seems that they could improve their certification practices considerably by studying and following the example of the British Columbia Board's experience with province-wide certifications for multi-union locals. If this were done, the Boards could contribute considerably in the long run to the cause of industrial peace in the construction industry; however, there is one exception — the Quebec Labour Relations Board. This Board could benefit little by the experience of the British Columbia Board because of the structure of the union movement in the construction industry in Quebec, with the National Syndicates and the international unions each dominant in one of two main areas. Possibly the best solution for the Q.L.R.B. would be to determine the bargaining units on a large area-wide basis taking into consideration this structure of the union movement.

# 5

## MULTI-PLANT OR MULTI-LOCATION BARGAINING UNITS

Labour Relations Boards have to decide whether the appropriate bargaining unit for certification should be a single-plant (or single-location) unit as distinct from a multi-plant (or multi-location) unit. This can have important implications on issues such as industrial peace, the uniformity of wages, the hours of work, and other working conditions. Also, in Canada the certified unit is the same as the conciliation unit (see Part I, Chapter 1) and the scope of the unit approved by a Board for certification has significant consequences on the scope of collective agreements, and on the outcome of collective bargaining and the settlement of labour disputes.

Until recently most Boards had a tendency to confine certification to single-location units. If the Boards had been willing to certify multi-location units, it is more than likely that they would have stimulated collective bargaining on a multi-location basis in Canada and would probably have encouraged many firms and unions that were bargaining on a single-location basis to voluntarily broaden the unit. This is presently done by mutual consent of the parties concerned and without multi-location certification orders, but this would probably have become more common if such units had been given legal status.

A multi-location bargaining unit has certain advantages and disadvantages. From the employers' standpoint, the advantages of multi-location bargaining are:

> "It helps to resolve company-wide issues on a corporation-national union level.[1]
>
> It makes possible uniform industrial relations policies and procedures throughout the company. Also the negotiating time and effort is concentrated.[2]
>
> In firms with "strong centralized control in other fields of management policy . . . company-wide bargaining is simply an extension of this policy." [3]

Against these, five points in favour of a single-location bargaining unit would be:

> "Bargaining is done by people who understand fully the background of the problems involved; therefore the contract is tailor-made to fit the situation.
>
> A more realistic contract is reached because those who do the bargaining must live with the results of their negotiations.
>
> The workers will more readily abide by the terms of the contract because they feel they have participated in its development.

> It prevents contract negotiations from being transferred to people who are complete strangers without interest in the employees involved.
>
> Union officials tend to think more in terms of the workers involved rather than in terms of national union policies that might not fit the individual plant or office."[4]

and also set out here are seven more arguments against a multi-location bargaining unit:

> "It creates large and unwieldy bargaining units.
>
> The company-wide master contract ends up with all the most expensive features of the contracts in force and with a minimum of what, from the company's standpoint, have been desirable features – 'despite the concentration of the company's best negotiating talent on the master contract.'
>
> It has the psychological effect of reducing the prestige of the local plant manager because it is obvious to the workers that policy decisions are made for him in the central office, and employees find they can go over his head by forcing grievances to the national level.
>
> If trouble arises in negotiations involving one plant, it forces a tie-up in all locations under the contract.
>
> Because the union is striving for a high percentage of uniformity on the various points that make up the contract, it is difficult to get variations in practice for particular locations 'even where there are sound reasons for such variations.'
>
> Meetings of representatives of all the units take up the time of groups not particularly interested in the unit being discussed but who have to stay at the meetings at all times.
>
> Management is faced with differences of opinion among union representatives because they are vying with each other for political power, or they have their own ideas of what constitutes good relations at the plant level." [5]

What are disadvantages for employers can be bargaining advantages for unions and their members. That a union can close down some plants of the employer, gives additional strength to the union in collective bargaining. Thus multi-location bargaining tends to balance the strength of management and labour, and it prevents orders and materials being moved from striking to non-striking plants.[6] Also, similar categories of employees in different plants of an employer have similar bargaining objectives, and these can be more easily achieved through multi-location bargaining. Such bargaining does not prevent the possibility of special regard being given to local plant needs, competitive conditions, and geographical wage differentials. For every point argued against multi-unit bargaining, one can be found in its favour.

At present larger bargaining units are developing in Canada.[7] Labour Relations Boards can facilitate this development by being more favourably disposed towards certification of multi-location bargaining units, and the Boards should consider the adoption of criteria that are used by the United States National Labor Relations Board. This Board:[8]

> "considers in the multi-plant situation such factors as centralization of management,[9] uniformity of control of labour policies, uniformity of wages, hours, accounting practices, working conditions in the plants,[10] and whether production in the plants is dependent or inter-dependent,[11] i.e., integration of operations. Distance between plants may also become a factor, particularly if the distance is

> so great as to preclude employees from meeting and discussing labour issues together.[12] But distance is never a controlling factor, and will not prevent the establishment of a broad unit if other factors point in that direction."[13]

Multi-location certification criteria applied by the Canadian Boards are more rigid than the criteria applied by the United States N.L.R.B., and this will be made evident from an examination of these practices by the Canadian Boards in the following pages.

## The Canada Labour Relations Board

This Board favours the certification of multi-location bargaining units. It is the only Board in Canada that grants such certifications on a large scale. The reason that this is more common under federal than under provincial jurisdiction is probably due to the particular types of industries under federal jurisdiction.

Multi-location (or system-wide) bargaining units are a necessity in certain segments of the railway, shipping, trucking, airline, and broadcasting industries,[14] because of their geographical characteristics; e.g., the certification of airline pilots on a single-location basis, instead of on a multi-location basis, would certainly be meaningless. However, in some industries under the jurisdiction of the C.L.R.B. – e.g., crown corporations, uranium mines, grain elevators and flour mills – single-location rather than multi-location certification orders are issued[15] and, so far, the Board has refused to issue either single or multi-location certification orders to the banking industry.[16]

The Board's policy of favouring system-wide units whenever possible for the railway industry began with the Wartime Labour Relations Board on May 22, 1944, when this Board, in a case concerning CPR clerical employees,[17] decided that railway clerks at one location (Toronto) did not constitute a craft distinguishable from similar clerical employees at other locations. The Board's minutes of that date state:

> "It has not been shown that, as required by Section 5(2), (Wartime Labour Relations Regulations, P.C. 1003), the majority of the employees affected are members of one trade union, as employees other than at Toronto would be affected, and if the positions which the applicant wishes to segregate in one small agreement were included in the larger or system agreement, many more employees than are referred to in the application would be affected."

In some of its reasons for judgments, the C.L.R.B. still refers to this decision by the W.L.R.B. For example, the Teamsters[18] made an application to be certified as a bargaining agent for:

> "All employees employed by the Canadian Pacific Railway Company in its Merchandise Service at Vancouver, B.C., Victoria, B.C., Duncan, B.C., Nanaimo, B.C., Port Alberni, B.C., Courtenay, B.C. and Campbell River, B.C., or elsewhere in Canada."

In this case the C.L.R.B. stated that the 1944 decision by the W.L.R.B.:

> "was accepted as approving a national or system-wide unit for the classification affected. It has been accepted by both railways and by the unions affected as applying to a number of other classifications of railway employees."

and the Board felt that experience over the last sixteen years has convinced it that:

> "bearing in mind the history and circumstances of railway operation and collective bargaining in the railways in Canada, it was a wise decision, and that it has contributed materially to industrial peace in the railways. In the Board's opinion, a rule so long established, so generally accepted, and so useful in operation should not be departed from without strong and cogent reasons."

Another industry in which the C.L.R.B. favours system-wide (or fleet) bargaining is shipping,[19] and the Board frequently issues certificates on a fleet basis and is willing to modify applications that do not cover all the vessels of a company. For example, in the case of the Seafarers' International Union of North America, Canadian District, and Hamilton Tug Boat Company Ltd., the union applied for certification as a bargaining agent for the unlicensed employees employed aboard the tug *Prudence*. In determining the case, the Board decided that the appropriate bargaining unit also included the unlicensed employees of the Respondent employed aboard the tug *Thistle*, a vessel operated intermittently by the company.

In some cases the Board specifies the names of vessels covered by a certification order[20] but, in others, refers to all the vessels of a company.[21] A variation on this practice is when the C.L.R.B. granted a certificate to the Canadian Brotherhood of Railway, Transport and General Workers, on behalf of a unit of marine engineers employed by Deeks-McBride Ltd., Vancouver, B.C.,[22] without specifying the name of the vessel on which the engineers were employed. In this particular case the company had only one vessel but, by granting such a certificate, *in effect* the Board automatically included in the bargaining unit employees of any new vessels that the company might acquire in the future.

Trucking is another industry in which the C.L.R.B. certifies system-wide (or multi-terminal) bargaining. However, the scope of certification varies from case to case. It depends on the bargaining structure of a company and the extent to which the operations of the various terminals are integrated. Two examples illustrating the Board's practice follow. The first example is an application by the Teamsters, Local 106, for a unit of employees of Carwil Transport Ltd., in the Montreal area. In rejecting the application the Board found that it covered only a segment of the total number of employees of a classification and went on to say that:

> "the trucking operations of the Respondent in and between Toronto and Montreal are an integrated operation, and that employees in the same classifications who are working out of Toronto or Montreal formed an appropriate unit." [23]

The second example is the case of Western Canadian Greyhound Lines Ltd., and Western Canadian Greyhound Employees' Union,[24] for certification of a unit of employees of motor coach operators at Winnipeg, Regina, Saskatoon, and Calgary. The Board stated that:

> "The employer contends that the proposed bargaining unit is not appropriate since it includes employees in each classification stationed at only four of its several centres of operation. The Board agrees with the employer's contention in this respect. To appoint bargaining representatives at four operating centres out of 16, and to make no provision for the same classifications of employees at

> 12 intervening places, would permit the employees at the intervening points to elect or appoint bargaining representatives who would be entitled to negotiate for separate collective agreements, and this could easily lead to much confusion and dissatisfaction."

In the airline industry the C.L.R.B. limits the scope of certification to employees stationed in Canada. The Board might certify employees of a Canadian company on the Trans-Atlantic run, but it will not certify the employees on a run between two points outside Canada, e.g., between Hong Kong and Australia. With regard to foreign companies, such as K.L.M., Air France, etc., the Board would certify the ground crew but not the flight crew. System-wide (or multi-location) bargaining is also favoured by the Board at times for the airlines, but the scope of certification usually depends on whether it applies to the ground crew or flight crew.

The scope of the ground crew certification, regardless of whether it is for a domestic or a foreign company, is usually a particular airport. For example, the United Automobile Workers were certified in September, 1962, for certain clerical and service employees engaged by the British Overseas Airways Corporation at the Toronto International Airport, Malton, Ont.[25] A similar certification order was granted to the Canadian Airline Dispatchers' Association, which had been certified for Dispatchers of Trans Air Ltd., Winnipeg International Airport, in October, 1960. Nevertheless, in some instances and depending on the request in the application and the attitude of the employer, the Board may certify ground crews at more than one location on a single certificate. An example is the certificate granted to Canadian Airline Dispatchers' Association "on behalf of a unit of dispatchers employed by Pacific Western Airlines, Limited, at the Vancouver and Edmonton airports."[26]

In the certification of air crews the C.L.R.B. at times refers to the pilots' flight routes; e.g., the Board certified the Canadian Airline Pilots' Association "for pilots-in-command and co-pilots employed by Trans Air Limited, Winnipeg, Man., in its Mainline Division"[27] and thus distinguished these pilots from bush pilots. In other instances, the Board might specify the pilots' base locations; e.g., the Board certified the Canadian Airline Pilots' Association "on behalf of a unit of captains, pilots and co-pilots employed by Quebecair Incorporated in the operation of flying machines, based at Rimouski and Quebec City."[28] Although such certification orders refer to "Mainline Division" pilots or those based at specific locations, in reality these certificates embrace all pilots of a company as employed at the time of certification.

Broadcasting is yet another industry in which the C.L.R.B. approves of system-wide certification, especially in cases where a strike in one location could tie up the whole system.[29] For example, the Board would certify all C.B.C. radio news personnel across Canada,[30] and similar practices would be followed for the television news personnel,[31] the film department staff,[32] and the radio and television technicians.[33]

In certifying system-wide units the C.L.R.B. observes the precedents set by the W.L.R.B. For instance, in the case of the Canadian Broadcasting Corporation and the International Brotherhood of Electrical Workers,[34] the W.L.R.B. held that a unit composed of radio broadcast technicians employed at the Toronto office of the Corporation would be inappropriate. The Board's view was that these employees were only a small proportion of all the employees of the same classification employed at 17 offices of the Corporation throughout Canada and, in giving its reasons for the decision, the Board stated that:

> "The Canadian Broadcasting Corporation is engaged in the business of communications and its radio broadcast technicians work together on the same broadcast, although their duties are performed at points which are hundreds of miles apart."

The W.L.R.B. did, however, certify single-location bargaining units of employees who would not, in case of a strike, tie down the whole system, and this precedent has been followed by the C.L.R.B. in certifying such units for building maintenance employees of the broadcasting industry.[35]

Provincial Labour Relations Boards, however, prefer to certify single-location bargaining units because of the type of industries in their jurisdiction. Certifications of multi-location (or multi-plant) bargaining units are rare in all provincial jurisdictions; some isolated instances of multi-plant certifications have occurred in Ontario, Quebec, British Columbia, Manitoba, Alberta, Saskatchewan, and Prince Edward Island, but none in Nova Scotia or New Brunswick.

## The Quebec and Ontario Labour Relations Boards

The attitudes of the Quebec and Ontario Boards towards certification are based on the idea that a group of employees should be united by a common interest to be certified as a bargaining unit. The Boards have usually held that such an interest is absent when the units, although belonging to the same employer, are located in different geographical areas.[36] The Q.L.R.B., however, makes exceptions to this principle in some instances where a few plants or stores, although separated, are located very close to each other.[37] Thus, if a few stores or plants of a particular company are located within a city area, the employees at these locations might be certified in one bargaining unit,[38] depending upon the scope of the unit that is requested in the application for certification and upon the employer's attitude.

There have also been a few cases of multi-plant certifications in Ontario, but these have only occurred where the plants were located close together – within a few miles of each other – and where there was an interchange of personnel with a common interest, and where both union and management agreed to such a unit.[39]

In the trucking industry the practices of the Q.L.R.B. differ from those of the O.L.R.B.: the Quebec Board is willing to certify a multi-location unit for employees located at different terminals of one company[40] but certifications by

the Ontario Board are mostly on a single-location basis, for the O.L.R.B. believes that employees of an individual terminal (qualified as large enough) represent the most appropriate unit for certification.[41]

In a few instances, the Ontario Board certifies trucking terminals jointly, but only if both parties (employers and employees) consent to it and if one of the terminals is qualified as too small. An example of this was the certification of the Teamsters as the bargaining agents for "all employees of Toronto Peterborough Transport Company Ltd. employed at and working out of its Cobourg and Lindsay terminals, save and except dispatchers or foremen, persons above the rank of dispatcher or foreman, office staff, persons employed for not more than 24 hours per week and students hired for the school vacation period."

While the O.L.R.B. is reluctant to certify multi-location units in manufacturing and trucking, it does certify multi-location units in chain stores. Frequently, a few stores of one chain that are located in the same city are certified jointly.[42]

## The British Columbia Labour Relations Board

Multi-plant (or multi-location) certifications are not common in British Columbia and the main reason for this is the relative scarcity of single-employer multi-plant manufacturing operations in the province;[43] however, there are some that have been issued to chain stores and restaurants, to the schools and to the trucking industry.

In the past, when faced with petitions for single employer multi-plant certifications, the B.C.L.R.B. usually applied the following criteria: the interdependence of plants, the interchange of workers between plants, the history of collective bargaining, and whether the plants in question were classified as primary or secondary industry. The B.C.L.R.B. usually denies certification to a unit of employees from both primary and secondary industries (see Part II, Chapter 1) and so would not certify jointly a unit of employees from a sawmill (a primary industry) and a pulpmill (a secondary industry). Similarly, the Board would not certify jointly employees from an aluminium smelter with those from an aluminum fabricating plant.[44]

The interchange of employees is an important consideration for the B.C.L.R.B. in certifying multi-plant units. This is especially true of logging operations, where one certificate might cover employees in a sawmill, a shingle mill, a planer mill and in the actual logging. An example is the case of MacMillan & Bloedel Ltd., 837 West Hastings Street, Vancouver (formerly Bloedel, Stewart & Welch) and International Woodworkers of America, Local 1-85, where the applicant union was certified as the bargaining agent for all employees of a "sawmill and shingle mill, and chipping plant located within confines of sawmill, except: Steam and power plant engineers." [45]

The B.C.L.R.B. has also issued multi-location certifications to stores,[46] restaurants,[47] mines,[48] schools,[49] and trucking companies.[50]

## The Manitoba Labour Board

The M.L.B. will certify multi-plant (or multi-location) bargaining units though, up to the present, it has only issued a few of these certifications.[51] The criteria that the Board applies in these cases are the interchange of employees among plants and the community of interest of the employees.

Th scarcity of multi-plant certifications in Manitoba can probably be attributed to the absence of applications for such units,[52] resulting from the relative scarcity (as in British Columbia) of single-employer multi-plant operations.[53] The M.L.B., as yet, has never rejected any application for multi-plant units; as a matter of fact, there has even been a case where the Board rejected an application because the union applied for a single-plant unit and, as the result of an intervention by the employer, the Board considered a multi-plant unit as more appropriate.[54]

This case concerned the International Molders & Allied Workers Union, Local 174, the Applicant, and Century Motors Ltd., the employer.[55] On September 15, 1961, the applicant union filed an application seeking certification as bargaining agent for a unit described as "all plant employees (engine re-manufacturing plant) of Century Motors at 420 des Meurons St. St. Boniface." After considering the evidence and arguments from both sides, the Board was of the opinion that the unit applied for was inappropriate. The Board's decision was based on the fact that the firm had another plant not covered by the application and that there was an interchange of employees between these two plants. This reason was not given in the notice of dismissal of the application, for this only stated that the unit was inappropriate, but it was mentioned to the writer by the Registrar of the M.L.B., Mr. McKelvey, who also suggested that the Board would only have considered a multi-plant unit appropriate for certification in this case.

There are some instances where the M.L.B. have certified all the employees of a company in a particular city. Although such a bargaining unit could have been restricted at the time of certification to cover the employees at only one plant, the certification order *in effect* will automatically cover all employees in the future at any new plants that the company concerned might open in that particular city. To illustrate, on August 22, 1957, the M.L.B. certified the Retail, Wholesale Bakery Workers Union, Local 895, as the bargaining agent for all employees of the McGavin Bakeries Ltd. in the city of Brandon, except for office staff.[56] Consequently, if McGavin Bakeries decided to open another plant in Brandon, according to this certification order, employees at the new plant would automatically be represented by the Retail, Wholesale Bakery Workers Union, Local 895. The fairness of this for the new employees is, of course, debatable.

The M.L.B. has also issued certification orders giving even broader coverage than that of McGavin Bakeries. In a case concerning the National Foodland Company, Ltd., and the Retail Store Employees Local 832, Retail Clerks International Association, the applicant union was certified as the bargaining agent for a unit of "all employees of National Foodland Company, Ltd., employed in its

Retail Meat and Grocery Stores located in Greater-Winnipeg and Transcona, except office staff and those excluded by the Act." [57]

A few years ago, however, the M.L.B. modified this policy for the chain stores. The Board now issues an individual certificate for each existing store as it considers that it would not be fair for new employees of future stores to be automatically included in such certification orders.[58] An ilustration is the certification in 1958 of the Retail Stores Employees Local Union No. 832, Retail Clerks International Association, as the bargaining agent for "all the employees in the store presently operated by Dominion Stores Limited at Winnipeg except office staff, foremen, those excluded by the Art and those covered by Certificate No. MLB-708." [59]

## The Alberta Board of Industrial Relations

The A.B.I.R. is willing to certify multi-location (or multi-plant or multi-store) bargaining units when these units are within the boundaries of one city, but it is not willing to certify jointly two plants of an employer when the plants are located in different cities. Since the labour unions in Alberta are aware of the Board's policy on this matter, they do not apply for such units. The A.B.I.R. considers plant or store units of a single employer that are located in different cities as separate entities, and the Board assumes that they should be treated as such.[60] Illustrations of multi-location certification orders within one city are the cases of Hycroft China Ltd.[61] and the Alberta Processing Company.[62]

There are a few instances in special situations where the A.B.I.R. has certified multi-location units in more than one city. In the case of the Alberta Brewers' Agents Ltd., Calgary, Alberta, the A.B.I.R. certified the applicant union as the bargaining agent for "all drivers employed by the Alberta Brewers' Agents at Calgary, Lethbridge, Drumheller, Blairmore, Medicine Hat, and Red Deer." [63]

The A.B.I.R. frequently grants certification orders that describe the bargaining unit as an 'all-employee' unit. When such certification order is granted, the employer usually operates only one plant in the province and the certification is in practice – at least initially – as for a single-location or single-plant unit. However, if this employer were to open another plant in the province, the union might be inclined to argue that employees in the new plant would also be covered by its certification order. An example of an all-employee unit that was granted to cover employees at one plant, but which could be interpreted as covering any new employees at future plants of the company, is the case of the Calgary Steel Tank Ltd.[64]

In some instances the A.B.I.R. has specified in a certification order that the bargaining unit will include employees of existing as well as any future plants of a particular company. An example of this is the case of the Amalgamated Meat Cutters and Butcher Workmen of North America, Local No. 373, Calgary, and Alberta Poultry Marketers Ltd., Calgary, Alberta, where the Board certified the applicant union as a bargaining agent for "all employees employed by the

employer in its present plant in Calgary, and/or in any plant succeeding the present operation." [65]

Multi-location certification orders to chain stores are those most frequently issued by the A.B.I.R., and the scope of the bargaining units in these orders is usually the area of a particular city.[66]

## The Saskatchewan Labour Relations Board

The S.L.R.B. is more liberal in certifying the single-employer multi-plant and multi-location unit than any other Boards in Canada. However, most Boards are only willing to certify multi-plant units within one city or within a certain area, but the S.L.R.B. does certify multi-plant units located in different cities.

Unions applying for multi-plant certification orders have to prove to the Board that they have a majority support in *each* of the plants stipulated in the order; an *overall* majority alone is not sufficient to obtain certification.[67]

Examples of S.L.R.B. certification orders covering multi-location units are those for the employees of Canadian Propane[68] and Loblaw Groceterias Ltd.[69]

## The Maritime Labour Relations Boards of Nova Scotia, New Brunswick and Prince Edward Island

The Boards of Nova Scotia[70] and New Brunswick[71] have never certified multi-plant bargaining units and, in this respect, they differ from the P.E.I.L.R.B. which in the past has certified such units.[72] Nor has the Nova Scotia Board certified multi-store units, a practice that is quite prevalent in the other jurisdictions for, in Nova Scotia, the unions apparently find it easier to organize and to apply for the certification of employees at each store individually.[73]

In this respect, the situation in New Brunswick is different and there are some instances where this Board has granted certification orders for multi-store units – an example being the certification of the Retail, Wholesale and Department Store Union, Local 1065, as "the bargaining agent for all employees of Dominion Stores Limited in its retail stores at Moncton, N.B." [74] Nevertheless, there are also instances of the New Brunswick Board rejecting certification applications for multi-store units, and an example concerned Dominion Stores Ltd. where:

> "the union applied for certification for all employees, with certain exceptions, of Dominion Stores in the Saint John-Lancaster area. The area contained five stores. An investigation by the N.B.L.R.B. revealed that the union (Retail, Wholesale and Department Store Union) had an overall majority, but lacked a majority in three of five stores. The N.B.L.R.B. considered that a blanket certification covering all stores would violate the rights of the employees in three stores to remain out of the union if they so desired. The union was directed to make separate applications for each store. They have successfully done so since." [75]

## Differences Between Actual and Certified Bargaining Units

In most jurisdictions, although there are only a few certification orders for multi-location bargaining units, collective agreements negotiated on a multi-

location basis are quite common as the result of voluntary arrangements between management and union. For example, in New Brunswick, multi-store units have rarely been certified and multi-plant units have never been,[76] yet there are instances of firms (such as the Fraser Companies – see Appendix V) that bargain on a multi-plant basis despite the fact that their employees have been certified in separate plant units.

In British Columbia, 13,000 employees[77] are covered by agreements on a multi-location unit basis; in Ontario, 29,000;[78] and in Quebec, 41,000;[79] these totals are based on statistics from the Economics and Research Branch of the federal Department of Labour.[80] However, from the results of interviews with executive officers of various Boards, it appears that these totals are much smaller than the number of employees actually covered by multi-location bargaining units.

Another example that illustrates this difference between actual and certified bargaining units is the case of Wabasso Cotton in Quebec. The Board granted certification on a single-location unit basis to the employees at each of the company's plants in the province, but the company negotiates one master agreement with the United Textile Workers to cover the 1,900 employees at its plants at Trois-Rivières, Shawinigan, and Grand'Mère, Quebec.[81]

There are instances where this difference between the actual and certified bargaining unit is not solely within one Board's jurisdiction but extends beyond. For example, there are a number of companies – American Can, with branches in Quebec and Ontario; Canada Cement, with branches in Quebec, Ontario, New Brunswick, Manitoba, and Alberta; Canada Packers with branches in Quebec, Ontario, Prince Edward Island, Manitoba, Alberta, and British Columbia; Continental Can with branches in Ontario and British Columbia; and many others[82] – that bargain on an interprovincial multi-plant basis, yet are only certified on an individual plant basis by the provincial Boards.

The division of jurisdiction of the Boards, as it concerns their ability to certify interprovincial multi-plant units, can, at times, become an obstacle in curbing industrial friction. An illustration of this is the 1960 strike at the Dominion Bridge Company. The company has plants in Nova Scotia, Quebec, Ontario, Manitoba, Saskatchewan, and Alberta. In each of these plants the company negotiates a separate agreement with the United Steelworkers of America, and the employees at each of these plants are certified on a single-location basis by the Labour Relations Board concerned. In 1960 the union tried to obtain a master agreement covering all plants where it held bargaining rights in order to negotiate on a national basis. The company, however, was opposed to bargaining on a national scale on the grounds that the employees at each plant were responsible for their performance as a local group that had to be free to bargain locally in the light of local economic factors.[83] However, the validity of this argument is debatable, since bargaining on a national scale or that by a multi-plant unit is possible, and takes place in industries, such as cement or can manufacturing, with special consideration being given to local conditions and geographical wage differentials.

In the Dominion Bridge case, the parties could not settle their differences and a strike came into effect.

Had there been a National Board entitled to certify an interprovincial multi-plant unit, this strike could possibly have been averted for a National Board could have determined an interprovincial multi-plant unit, or an individual unit, appropriate for certification and bargaining. A National Board, having authority over companies that operate plants on an interprovincial basis, could be effective in dealing with large-scale industrial conflicts.

## Observations

Most provincial Boards, before approving certification applications for multi-plant bargaining units insist that the plants covered by such units are located within close geographical proximity of not more than a few miles apart. The only provincial Board that does not apply this criterion and is willing to certify multi-plant bargaining units covering plants in different cities, is the Saskatchewan Board. Community of interest among the employees of all plants, and the interchange employees among plants, are the other major criteria applied by the Boards.

The Ontario Board has an additional requirement in that it expects both management and union to agree to a multi-plant bargaining unit before approval is given. This requirement is not a condition with the British Columbia Board but this Board will reject applications for multi-plant bargaining units where the proposed unit would include plants in both primary and secondary industries.

The scarcity of multi-plant unit certifications, especially in the heavily industrialized provinces such as Ontario, Quebec and British Columbia, can probably be attributed to the fact that the Boards approve of single-plant units but disapprove of multi-plant units and, consequently, apply very demanding criteria. The smaller Labour Relations Boards would usually be willing to certify multi-plant units but, in their jurisdiction, multi-plant operations are relatively rare. For example, the Manitoba Labour Board approves of multi-plant certifications and has not yet rejected an application for a multi-plant bargaining unit; however, very few of these applications have been made to the Board.

Although the provincial Boards seldom certify multi-plant bargaining units, this does not mean that such bargaining is absent in Canada; on the contrary, there are many instances where Boards have certified single-plant units but the actual bargaining is conducted on the basis of a multi-plant unit – the extent of this in units of over 500 employees can be seen from Appendices L, O, Q, R, and V.

While the certification of multi-plant units is relatively infrequent in Canada, the certification of city-wide multi-store units – especially in supermarkets – is not, and such certifications have occurred in Ontario, Quebec, British Columbia, Alberta, Saskatchewan, and New Brunswick. In Saskatchewan and British Columbia, the Boards certify multi-supermarket bargaining units on an intercity basis.

A variation on this is the relatively recent practice of the Manitoba Labour Board where, instead of issuing certification orders covering all the present and future chain supermarkets in a particular locality, the Board now issues an individual certification order for each chain supermarket. Although this new practice probably results in more work for the Manitoba Board, there are some strong points in its favour: the employees of a new chain supermarket have a chance to decide whether or not they want a union to represent them and, if so, to decide which union; and a union now has to organize each new chain store and has to devote more attention to the new members instead of taking them for granted. Often, however, employees of a new chain store are relatively few in number and may be afraid of antagonizing the management by wishing to join a union; consequently, this new practice by the Manitoba Board may be a disadvantage for some. Basically, the question is one for a value judgment. This writer favours the certification of the city-wide multi-store bargaining unit, but with the availability of some sort of procedure whereby employees of new chain stores, if they so desire, could be excluded from the certified multi-store bargaining unit.

# 6

# MULTI-EMPLOYER BARGAINING UNITS

## Multi-Employer Certification Provisions

Of the eleven labour relations statutes in Canada, six have specific provisions governing multi-employer certifications within their respective jurisdictions. They are the federal Industrial Relations and Disputes Investigation Act,[1] and the labour relations statutes of British Columbia,[2] Manitoba,[3] Nova Scotia,[4] New Brunswick,[5] and Newfoundland.[6] These statutes, with the exception of that for British Columbia, all have similar provisions which have been patterned on Section 9(3) of the Industrial Relations and Disputes Investigation Act. This Section states that:

> "Where an application for certification under this Act is made by a trade union claiming to have as members in good standing a majority in a unit that is appropriate for collective bargaining, which includes employees of two or more employers, the Board shall not certify the trade union as the bargaining agent of the employees in the unit, unless (a) all employers of the said employees consent thereto, and (b) the Board is satisfied that the trade union might be certified by it under this Section as the bargaining agent of the employees in the unit of each such employer, if separate applications for such purpose were made by the trade union."

Section 10(2) of the British Columbia Labour Relations Act, which is different in text but resembles in meaning the provisions of the other five Acts, stipulates that:

> "A trade-union claiming to have as members in good standing a majority of employees in a unit that is appropriate for collective bargaining, and the employees in which are employed by two or more employers, may make application under this Section to be certified for the unit. The Board shall not certify the trade-union under subsection (2) unless (a) the unit is appropriate for collective bargaining in respect of all the employers; and (b) all the employers have consented to representation by one trade-union for the unit; and (c) a majority of the employees of each employer are members in good standing of the trade-union making the application."

Even a superficial scrutiny of these Acts reveals the limited authority of the Labour Relations Boards to certify multi-employer bargaining units.

## Advantages and Disadvantages of Multi-Employer Bargaining Units

### *Objections to Multi-Employer Certifications*

Most Boards are opposed to the certification of multi-employer bargaining units for the following reasons:

1. Difficulties can be encountered in enforcing collective bargaining in the units, especially if some of the firms are put in these units against their will as has happened in British Columbia.
2. Legislative difficulties can confront the Boards if they have to break up the units or have to carve out firms from existing units.
3. The dynamics of the actual bargaining structure can cause changes in the composition of the units.
4. The mobility of employers can cause them to move in and out of the units.
5. The absence of employers' associations with authority to negotiate collective agreements binding on their members.
6. There are more problems in negotiating a multi-employer labour contract than in negotiating a single-employer one, since each firm has special interests that are not always the same as those of the other companies in the units; consequently, in most cases of actual multi-employer bargaining, each company ends up with a separate agreement to take care of its particular conditions.[7]
7. Too many factors can be introduced into the bargaining scene, especially in situations where the employers in a unit cannot agree among themselves on a uniform stand when negotiating a collective agreement.[8]
8. Problems can also be created in instances where the majority of employees of only one employer have applied for decertification while the majority of employees of the other employers have objected to such a request.[9]
9. There is also some lack of consistency in bargaining patterns of some industries; in many instances employers have negotiated one contract jointly while the next one has been negotiated individually.[10]
10. Single-employer certifications do not prevent multi-employer bargaining, because employers and unions — on the basis of mutual consent — can form *actual* multi-employer bargaining units without certification. This type of bargaining unit exists in all provinces.

### *Reasons for Multi-Employer Certifications*

Despite these objections to multi-employer certification, it is the opinion of the writer that the Boards should have the legislative authority to certify multi-employer bargaining units without the consent of all employers in the units being necessary. This authority could possibly be supplemented — as has been suggested by Professor Crispo[11] — by strengthening some employers' associations

through legislation and by granting them the right to seek exclusive bargaining rights for their members similar to those that have long been the prerogative of the union federations. Some special legislative decertification provisions governing multi-employer bargaining units might also be necessary if the Boards were granted broader multi-employer certification powers.

The writer believes that broader multi-employer certification powers for the Boards would be the best way of improving the process of collective bargaining and industrial relations especially in certain industries such as construction, despite the lack of enthusiasm of the Boards for multi-employer certifications. This has also been recognized by Commissioner H. Carl Goldenberg, the one-man Royal Commission on Labour Management Relations in the Construction Industry in Ontario, and by Professor Crispo of the University of Toronto.

There are some other instances in which multi-employer certifications could be desirable. The Quebec case of Beau Brummell Inc. and Crown Royal Clothing[12] (see also p. 127) is a good illustration. In this case, the two companies were separate entities in legal terms only, since in reality, they occupied the one premises, were in the same line of business, and were controlled by the same group of owners. The use of two legal entities was only a matter of convenience for the employers. The Q.L.R.B., however, did not believe it could legally grant joint certification to the two companies. Initially, in such cases, one union may be granted separate certification rights in each firm, but a competing union could come in and try to dislodge the existing union in one of the firms. Thus a situation could arise whereby two different unions could represent the same categories of employees who *in effect* would be working for one employer under one roof. The complications in terms of seniority, collective bargaining, lay-offs, promotions, and the transfer of employees from one legal entity to the other, which could originate under this set-up, are quite apparent.

Another significant reason that might be put forward in favour of multi-employer certification is that it would have a stimulating effect on multi-employer bargaining. As indicated earlier, there is a great deal of this taking place in Canada despite the fact that there are only a few multi-employer certifications. It could be that an increase in multi-employer certifications would encourage such bargaining and, in consequence, favourably affect the economy of the country.

### *Advantages of Multi-Employer Bargaining*

Under multi-employer bargaining, wages tend to become more uniform than under single-employer bargaining,[13] and this could result in their becoming much less of a competitive factor in terms of cost. Employers would thus be better able to estimate their position with respect to labour costs as compared to that of their competitors. It seems, too, that negotiations are more mature under multi-employer bargaining than under single-employer bargaining, because of the better information and the more responsible and long-term views that are then held by both sides – employers and unions.[14] In addition, broad issues such as

pension plans are more often included in such negotiations, for these are issues that a single employer would not be in a position to negotiate on an individual basis apart from his competitors.

From the standpoints of industrial peace and lower costs to society resulting from fewer strikes, systems of multi-employer bargaining show a better record than those of single-employer bargaining. It seems that the bargaining parties under a multi-employer system pay more attention to public opinion, and are more concerned when adverse publicity arises from strikes. Multi-employer bargaining also helps to eliminate two types of strikes — the strike where a certain firm is singled out as a target to gain new objectives, and the strike intended to bring the erring employer into line.

### *Disadvantages of Multi-Employer Bargaining*

The uniformity of wages resulting from multi-employer bargaining will not necessarily remove wages as a competitive factor in terms of costs, since "the same wage increase can lead to a variety of cost increases (depending on the cost functions of the individual firms) and, in all likelihood, to non-uniform price increases." [15]

Under multi-employer bargaining, sufficient recognition is usually *not* given to local needs and requirements because, possibly, the negotiators are either too far removed from the local scene and therefore not aware of local conditions or are more concerned with achieving uniform conditions for all plants and employers. This striving for uniformity often outweighs the heterogeneous needs of the various employers and plants.

The destructive potential of strikes under systems of multi-employer bargaining, when these occur, is far greater than those under systems of single-employer bargaining.[16]

### *Implications of Multi-Employer Bargaining*

Although all these pros and cons have a certain amount of validity, their relative importance would vary from situation to situation, and from industry to industry. For instance, the type of bargaining unit that would be suitable for the construction industry is not necessarily the best for the shipbuilding industry, and the same would apply in that the type of unit appropriate for the garment industry is not necessarily the best for the textile industry.

Where characteristics are different in an industry, these call for a different type of bargaining unit. For example, in the construction industry, where there are many small building contractors, the establishment of single-employer bargaining is not the best solution (for a number of reasons already discussed) and a solution for this industry — or for that matter the garment industry where there is a great geographical concentration of small production units — might be the establishment of multi-employer bargaining. In contrast to this, there are in-

dustries such as shipbuilding, where there are only a few single-plant firms in an area and single-employer bargaining is probably more appropriate.

The granting of legislative authority to allow the Boards to certify multi-employer bargaining units could be desirable for dealing with some situations in certain industries but, if introduced, such powers should not compel the Boards to certify multi-employer bargaining units whenever these are applied for, even if all the requirements were satisfied. Instead, the Boards should be given the discretionary powers to decide in each case, taking into consideration the circumstances, whether or not certification would be desirable.

## Multi-Employer Certification Practices

Although, as mentioned earlier, six of the labour relations statutes in Canada have specific provisions governing multi-employer certifications, there is very little of this type of certification being done in this country. The reason for this is the reluctance of the Boards to grant these certifications as, under present legislation, agreement among all the employers in such a unit has to be obtained; and this is usually difficult. Also, in most instances, the unions do not apply for multi-employer certifications because of this difficulty, which would cause their applications to be rejected.

Of the six Boards that are governed by multi-employer legislation, those of Manitoba, Nova Scotia, and New Brunswick, have never issued such certification orders. Only the Canada Labour Relations Board, the Wartime Labour Relations Board (predecessor of the C.L.R.B.), and the British Columbia Board, have had experience with multi-employer certifications and have issued a few of these certification orders.[17]

### *The Wartime and Canada Labour Relations Boards*

Certifications of multi-employer bargaining units were more common under the Wartime Labour Relations Board (W.L.R.B.) than under the C.L.R.B.; between 1944 and 1948 the W.L.R.B. issued thirteen multi-employer certifications[18] but only eight were issued between 1948 and 1963 by the C.L.R.B.[19]

The decline in multi-employer certifications can probably be attributed to the more limited jurisdiction of the C.L.R.B. (compared to that of the W.L.R.B. at the time) and to Section 9(3) of the I.R.D.I. Act, which makes it necessary to have the consent of all employers for the granting of such certifications[20] (this being difficult to obtain, the unions usually prefer to apply for certifications on a single employer basis).

Within the jurisdiction of the C.L.R.B., at present, most of the industries in which the employees might be covered under multi-employer bargaining – e.g., shipping or stevedoring[21] – already are. Trucking is the only exception where the C.L.R.B. could probably expect many such certification applications. If, in the future, the unions representing employees of trucking firms (presently certified by

the provincial Boards, but following the Tank Truck case,[22] now under federal jurisdiction) would try to gain certification from the C.L.R.B., then the number of multi-employer certification orders granted by the federal Board could substantially increase. Of course, this assumes that unions would apply for such certifications and that the federal Board would be favourably inclined to their applications by virtue of the fact that many firms in this industry at present bargain on a multi-employer basis.[23]

An examination of multi-employer certification applications reveals that a number were rejected and these are now discussed.

The case of the American Newspaper Guild, with its headquarters in New York, U.S.A., Applicant, and the Canadian Press, with its head office in Toronto, Ontario, Respondent,[24] concerned, among other things, the inclusion of employees of Press News Ltd. ( a subsidiary company of Canadian Press, which is the principal shareholder) in a bargaining unit with employees of Canadian Press. Although there was a close working relationship between the staffs, the respondent company objected to including employees of both organizations in one unit and maintained that the two companies were separate corporate entities. The C.L.R.B. upheld this view and rejected the union application. The Board stated that, as the two companies were separate employers and as they did not agree to the inclusion of their respective employees in one bargaining unit, it had no authority to order such an inclusion.

In the case of the Shipping Federation of Canada[25] the C.L.R.B. rejected the application on the grounds that it did not appear to meet the requirements of Section 9(3) of the I.R.D.I. Act which, in part, sets out that, if an application covers the employees of *two or more* employers, the Board should not grant the certification unless it is satisfied that the Applicant could have been certified as the bargaining agent for the employees *in a separate unit* with *each* employer.

Another case concerned two separate applications for certification made by Division 591 of the Amalgamated Association of Street, Electric Railway, and Motor Coach Employees of America, which affected the employees of Hull City Transport Ltd., and Hull Metropolitan Transport Ltd. Included in the description of the bargaining unit and identical in both applications, was the phrase "all employees". The Board determined during the investigation that, although the companies were separate corporate entities and maintained separate sets of books, they were owned by one group and the employees formed a common pool of labour. Clearly, their operations were not distinguishable with respect to labour relations as their employees could have been — and were — freely transferred from one company to the other. The Board also determined that the two separate applications were made because the companies refused to be joined in one application (in accordance with Section 9(3) of the I.R.D.I. Act, unless the consent of all employers was available the Board could not have granted a multi-employer certification). In view of these circumstances, the C.L.R.B. decided that the bargaining units were appropriate in each case as applied for. Two certi-

fications were issued, each one being for an all-inclusive unit of the garage and operating employees of each company.

Thus, a conclusion to be drawn from these cases would seem to be that, if it were not for Section 9(3) of the I.R.D.I. Act restricting the discretionary powers of the C.L.R.B. when determining the appropriateness of bargaining units, multi-employer certifications would have been much more frequent.

### *The British Columbia Labour Relations Board*

The B.C.L.R.B. is the only provincial Board with considerable experience in granting multi-employer certifications, these being granted prior to 1954 by virtue of Section 12(3)[26] of the Industrial Conciliation and Arbitration Act. This Section did not stipulate that agreement among *all* employers was necessary, only that agreement among *the majority* was sufficient. This, together with the favourable attitude towards multi-employer certification by the pre-1954 Board, probably accounted for the many multi-employer certification orders issued when this Section was in effect.

In 1954 the Industrial Conciliation and Arbitration Act was repealed and replaced by the Labour Relations Act. This Act stipulated that it was not necessary for a union seeking multi-employer certification to have agreement among the majority of the employers included in such a unit, but the union had to submit proof that the "majority of the employees of each employer have consented to representation by the trade-union making the application."

In 1961 a new amendment to the Act made it necessary for agreement among all the employers to be obtained — instead of just a majority – in the case of a multi-employer certification. This amendment had important repercussions on the number of multi-employer certification orders issued by the Board. (Note: The Board calls these poly-party certification orders.)

Appendix X shows that there were a great number of poly-party certification orders issued prior to 1954 – many of these being still in effect – but hardly any after that. This can probably be attributed to the legislative amendments that made it so much harder for a union to attain such certifications and to the reluctance of the present Board (reorganized in 1954) to grant such certifications. The previous Board (1947 to 1954) favoured the granting of poly-party certifications and issued many of these.[27]

The pre-1954 Board thought that poly-party certifications would bring many employers together around the bargaining table and that this would contribute to greater harmony in industrial relations. Unfortunately, this did not happen. Instead, many of these poly-party certifications created problems that still plague the present Board and, consequently, this Board is disinclined to grant poly-party certification.[28] However, this does not mean that the present Board objects to multi-employer bargaining. The contrary is true[29] as the Board believes that such development should come about as the result of voluntary arrangements between the parties concerned instead of as the result of poly-party certifications.[30]

The amendments to the legislation governing poly-party certification in B.C., as well as the present policy of the B.C.L.R.B. on this issue, are the direct outcome of the difficulties that have arisen from poly-party certification.

When the pre-1954 Board issued poly-party certification orders – i.e., when agreement among only a majority of the employers concerned in each case was necessary – this meant in practice that many employers were included in poly-party units against their will. Eventually some of these employers decided not to associate themselves with the poly-party units; they withdrew from the units and, individually, began negotiations of separate agreements with the unions. There was nothing that the Board could do to prevent this.

In recent years, the B.C.L.R.B. has received many inquiries from employers covered by poly-party units as to how to get out of these units to negotiate collective agreements separately. Although the Board recognizes the reality of the situation — that it would be best, in some instances, to break up the artificially created poly-party units – the Board cannot do this as it does not have the necessary legislative authority.[31]

What seems to be lacking is some sort of a decertification legislation enabling the Board, on the basis of an application by union or employer, to carve out one or more firms from a poly-party certificate if the majority of employees in these firms wished it. At the same time such decertification should not affect the status of the rest of the poly-party unit.

The poly-party certificate granted to the Milk Wagon Drivers' and Dairy Employees' Union, Local No. 464, January 15, 1954, led to a situation illustrating the Board's inability to break up a poly-party unit on the basis of an application by an employer.[32] In this particular case the B.C.L.R.B., acting under the authority of the Industrial Conciliation and Arbitration Act, granted a poly-party certificate authorizing the union to bargain for a unit consisting of the employees of:

Creamland Crescent and Empress Dairies Ltd.
Drake Dairy Ltd.
Fraser Valley Milk Producers Association
Fraser Valley Milk Producers Association, Dairyland Division
Fraser Farms Ltd. – Glenburn Dairy Ltd.
Guernsey Breeders' Dairy Ltd. – Jersey Farms Ltd.
Palm Dairies Ltd.
Richmond Milk Producers Co-operative Association
Royal City Dairies Ltd.

After 1954, the composition of the poly-party unit changed in two ways. First, through purchases and amalgamation, the number of companies was reduced to four:

Drakes Dairy Ltd.,
Fraser Valley Milk Producers Association, Dairyland Division
Jersey Farms Ltd.
Palm Dairies Ltd.

Second, the employees of Fraser Valley Milk Producers Association now constitued approximately sixty per cent of the employees in the unit against less than forty per cent in 1954.

This change meant that Fraser Valley Milk Producers Association, and its employees, could now dictate the conditions under which the other companies and their employees had to work, illustrated by this extract from the petition by Palm Dairies Ltd.

> "In 1957 over the objection of this company, a clause was introduced into the Collective Agreement between the poly-party group of employers and Local 464 which provided for a seven-day, every other day, delivery system for all employers. Since then, and particularly during the 1962 negotiations, Palm Dairies has attempted to have this clause amended, so as to permit each Company to adopt the form of delivery favoured by each individual Company, and its employees. In this Company's opinion, a change in the method of delivery was imperative if Palm Dairies Limited was to continue in the retail milk delivery business. Due to the physical lay-out of its plant, this Company could operate more efficiently on a five-day per week delivery system. This request was endorsed by seventy-six per cent of the company's employees, because they preferred to have two definite days off each week, instead of working for extended periods, and then taking a number of days off in a row as they must do under the new system. Fraser Valley Milk Producers Association and their employees . . . opposed this request. As a result, Palm Dairies Ltd. was compelled to withdraw it, even though the request was essential to the continued operation of its retail milk delivery business, and was favoured by a majority of its own employees." [33]

The reason for the withdrawal of this request was a conciliation report recommending the continuation of the existing delivery system because it was favoured by most of the companies and their employees in the poly-party unit. Palm Dairies realized that if it rejected the conciliation report, the union could apply for a strike vote. In view of the official position taken by the union on this issue, which was supported by employees of the Dairyland Division of the Fraser Valley Milk Producers Association (who formed sixty per cent of the unit), there was no doubt that such action would be initiated by the union. If a strike vote were applied for, the employees of Dairyland alone could easily out-vote the employees of Palm Dairies. Consequently, the employees of Palm Dairies could legally be on strike, even though one hundred per cent of them voted against strike action. Also, the strike being legal, the union could lawfully place a picket line around the company's premises. In this event, the company's other employees, who were members of the International Union of Operating Engineers and the B.C. Autoworkers' Lodge, would be compelled to honour the picket line and the operations of the company would be brought to a halt, even if all its dairy workers and drivers were willing to work. Under these circumstances, Palm Dairies had no alternative but to withdraw its request for a change in the delivery system.

It was in view of these difficulties that Palm Dairies petitioned the B.C.L.R.B. on October 5, 1962, to alter the poly-party certification order of January 15, 1954, by removing their employees from it and, then, to certify separately the Milk Sales Drivers' and Dairy Employees' Union, Local 464 (the new name of the union) as the bargaining agent for their employees who originally had been included in the poly-party unit. The Board refused the application on the grounds that it had no legal authority to carry out this request to split up the unit on the basis of an application by an employer.[34]

The poly-party certification issued to 42 plumbing contractor firms on August 4, 1950 (see Appendix X) is another example that created problems. Out of the original 42 firms listed on the poly-party certification, 13 have ceased operations for one reason or another, 12 are now members of the recently formed Mechanical Industrial Relations Association, and the remaining 17 — still actively engaged in the business — are not interested in bargaining jointly for a master agreement. Some time ago, the Association, which consists of 35 member companies, applied to the provincial Department of Labour for the services of a conciliation officer. Initially, the officials of the Department, recognizing that the poly-party certification was still in effect, denied the application because of the 12 firms that were still listed on the certification. This meant that these 12 firms, which had surrendered their bargaining authority to the Mechanical Industrial Relations Association, were being penalized for their original association in the poly-party certification; they were, in fact, being denied the right to conciliation services available to other firms in their Association.

Eventually, however, the provincial Deputy Minister of Labour authorized (under Section 27 of the B.C.L.R.A.) the appointment of a conciliation officer for these 12 certified firms and, at the same time, pointed out to the Association the provisions of Section 13 of the Act. In part, this reads:

> "13. Where a trade-union is certified for a unit,
>
> (a) it has exclusive authority to bargain collectively on behalf of the unit and to bind it by a collective agreement until the certification is cancelled;"

Therefore, if more than one agreement were entered into, as a result of collective bargaining, these agreements could not be deemed to be collective agreements within the meaning of the Act. Also, if a strike vote were held, subsequent to the conciliation proceedings, the affected employees of all certified employers would be permitted to vote, including the 17 firms not interested in bargaining jointly for a master agreement.

Currently, the only way the B.C.L.R.B. can permit a firm to withdraw from a poly-party certification, is when a union applies to the Board during the 'open season' for a separate certificate for one of the employers in the poly-party unit.

Such a development actually took place in a situation concerning hotels where the unions recognized that it might be advisable to split up a poly-party unit. In this example some of the hotels included in the poly-party certification were very luxurious, whereas others were of the skid-row variety. When the poly-

party certificate was issued, the hotels belonged to the B.C. Hotel Association but, since then, the better hotels have left this Association to form the Innkeepers' Association. The community of interest between these two associations (in other words, between high-class and low-class hotels) is absent, so collective bargaining has suffered: the high-class hotels could afford to give a better settlement to the unions than the low-class hotels could, and this fact contributed to friction and delays in the collective bargaining process. The unions recognized this, and decided to carve out some of the hotels from the poly-party unit to negotiate with them separately. However, carving out individual hotels from those included in the poly-party certification was not a simple matter, and there were a few court cases during which the authority of the Board to break up the poly-party certification was questioned.[35]

The issue of poly-party certification in British Columbia was discussed with officials of the B.C.L.R.B. who expressed the view that poly-party certifications had not been very successful. They said that when the employers have trouble with the unions, the employers might decide to bargain jointly but, subsequently, when things had settled down, they might alter their views and leave the multi-employer group. It was suggested that this ability of employers to be mobile, to move in and out of multi-employer bargaining units, is the biggest drawback to poly-party certifications.

Since, in a free country like Canada, this mobility cannot legally be restrained and since employers cannot be forced to be members of employers' associations that would negotiate binding collective agreements, poly-party certifications may create unnecessary complications that could be avoided under single-employer certifications.

### *The Quebec Labour Relations Board*

In this province multi-employer certifications are non-existent and their absence can be directly attributed to the lack of multi-employer certification provisions in the Quebec labour relations statutes.

The Q.L.R.B. cannot certify multi-employer bargaining units, even if the employers and the unions agree on such units. This was demonstrated in the certification case of Beau Brummell Inc. and Crown Royal Clothing.[36] These two companies, although constituting two separate legal entities, occupied one premises, and were controlled by the same group of owners. In this case the Board expressed the view that it does not have the legal authority to issue a joint certificate covering two employers. The Board stated that:

> "Such a decision would not only be of doubtful legal validity, but contrary to the established policy and practice of the Board."

The Board also defended its position against multi-employer certification by quoting and interpreting parts of Sections 2 and 4 of the Q.L.R.A. in its reasons for judgement.[37] In interpreting Section 4, the Board expressed the opinion that:

> "It is apparent that where the legislator deemed it desirable to grant the right to several associations of employees to join to make up the majority against an employer, he took pains to say so in clear and unmistakable language. Had he intended, on the other hand, to allow one association of employees to ask for certification against two or more employers jointly, [the Board presumed that] he would have said so in equally clear language. The fact is that he did not. *Expressio unius, exclusio alterius.* Nor can the legislative intent be properly inferred from reading the Act as a whole. [Thus the Board believed that] the language used in the statute precludes such a conclusion."

Finally, the Board stated that a joint certificate covering two or more employers "does not lie" under the Act.

Although the Board's interpretation of the Act with respect to multi-employer certification may be correct, the wisdom of such legislative limitation seems very doubtful. It seems that separate certification of each company, which the Board had approved in this case, could eventually lead to industrial friction. There is the possibility that a competing union could try to gain certification for one of the units in the plant and such a development could contribute to jurisdictional conflict. If the Board had approved of a multi-employer unit instead, the chances of a competing union to split the unit would be very limited.

Although labour legislation in Quebec had no specific provisions for the certification of multi-employer bargaining units, the Q.L.R.A. (which was repealed by the New Quebec Labour Code on July 31, 1964) had certain provisions, unique in Canada, and these contributed to the formation of such units in the province. For instance, Section 6 of the Quebec Labour Relations Act provided for the certification of employers' associations. When an employer was a member of such an association, he had the right to refuse to bargain individually with the certified bargaining agents of his employees and to transfer the bargaining function to the certified association of which he was a member. According to Section 5 of the Q.L.R.A., such an association had an obligation to bargain for its members.

The Manufacturers' Council of the Ladies' Cloak and Suit Industry in Quebec is one such association with employers as members that was certified by the Board. In 1962, the Council negotiated a collective agreement for 66 companies, covering 2,500 employees, with the Montreal Joint Council of the Cloak, Coat, and Suit Makers Union – composed of Cutters, Local No. 19; Operators and Lining Makers, Local No. 43; Tailors, Finishers, and General Hands, Local No. 342; Pressers, Local No. 61.[38] Out of the 66 firms for which the Council negotiated collective agreements, 49 firms have been certified by the Q.L.R.B. as members of the Council.

Another legislative measure which has contributed to the creation of multi-employer bargaining units in the province is the Collective Agreement Act. The Act provides that wages and hours of labour (which are voluntarily agreed upon by the representatives of employers and employees in an industry in a given area) or matters such as these, may be made legally binding by Order in Council or decree covering all the employers and employees concerned. In practice, one or

more employers, and one or more "associations of employees" first make an agreement, and then either or both parties to the agreement may apply to the provincial Minister of Labour to have the wages, hours, and other terms of the agreement, made obligatory for all engaged in that industry in the district.

The significance of this Act with regard to multi-employer bargaining was well expressed in a paper delivered by Father Hébert:[39]

> "Multi-employer bargaining seems to have been the general rule in Quebec earlier than elsewhere. Although there was a few instances of this before 1934, it was truly and completely established with the decree system. The basic idea of juridical extension renders single-employer bargaining useless except in special cases, since after having signed an agreement which has a preponderant significance, and importance, the parties may obtain that everyone in the industry be obliged, through an Order in Council, to abide by the same working conditions as those agreed to in their contract."

In the final analysis, the Collective Agreement Act, by making it possible to extend certain provisions of a collective agreement reached by one or more companies to all firms engaged in such industry in a particular area, stimulates multi-employer bargaining. It serves as an incentive for the firms affected by the decree but not participating in collective bargaining to join resources with those that do, to obtain the best possible settlements with their unions.

Although the Q.L.R.B. has no authority to certify multi-employer bargaining units of employees, its ability to certify employers' associations, and the existence of the Collective Agreement Act, both contribute to the formation of multi-employer bargaining units in the province.[40]

### *The Saskatchewan and the Prince Edward Island Labour Relations Boards*

As in Quebec, the Board in Saskatchewan has not been vested with specific legislative authority to certify multi-employer bargaining units; nevertheless, in the past, the Board has certified a few of these units. In such cases, the Board assumed that by virtue of Section 5 of the Trade Union Act, which provides it with the authority to determine the appropriateness of bargaining units, it can certify multi-employer units. Consequently, if the S.L.R.B. decides that the multi-employer bargaining unit applied for is appropriate, and assuming that all other certification requirements have been satisfied, it will usually grant the certification.[41] Two examples are those of the joint certification of The Douglas Construction Co., Smith Bros. and Wilson Ltd., Poole Construction Co., and the Norman Hilsden and Joseph Smith Co.;[42] and the case of Custom Cleaners Ltd., and Belgian Dry Cleaners, Dyers, and Furriers Ltd.[43]

However, a case illustrating the refusal of the S.L.R.B. to issue a multi-employer certification, because there was no employers' association competent to bargain on behalf of all employers in the multi-employer unit, concerned the Great-West Implement Co.[44] In this particular instance the Board stated that on May 15, 1945, the applicant union submitted a certification petition which:

> "related to thirteen garages and farm machinery repair establishments. [The union claimed that] the auto mechanics, etc. employed in all thirteen of these establishments constituted a single appropriate unit of employees for the purpose of bargaining collectively."

It appeared, however, to the Board that there was no:

> "employers' association competent to bargain collectively with the union on behalf of all thirteen employers. For that reason, the Board decided that the specified employees in each individual garage constituted an appropriate unit, and proceeded to deal with the union's application in the same manner as if thirteen separate applications had been submitted." [45]

In the past, the Prince Edward Island Board has also certified multi-employer units. Although the P.E.I.I.R.A. has no provisions governing multi-employer certifications, the Board has certified multi-employer units – probably deriving its authority from Section 16(1) of the P.E.I.I.R.A., which permits the Board to determine the appropriateness of bargaining units. However, the Prince Edward Island Board is no longer willing to certify multi-employer units "on the ground that it has been found to be impractical when it comes to the question of negotiations." [46]

### *The Labour Relations Boards of Ontario, Alberta, Manitoba, Nova Scotia and New Brunswick*

These Boards have never issued any multi-employer certification orders. Some of the Boards are governed by specific legislative provisions regarding multi-employer certifications while others are not covered by any on this subject.

Until 1950, the Ontario Board (under Section 9(3) (a and b)[47] of the O.L.R.A. of 1948) had the discretionary authority to certify multi-employer units, but this authority was withdrawn with the passage of the O.L.R.A. of 1950. Although this Act was amended a number of times after 1960, no provision empowering the Board to certify multi-employer units was again inserted into the legislation. From interviews[48] with officials of the O.L.R.B., it appeared to the writer that the Board was not too anxious to regain the legal authority necessary for certification of multi-employer units. This attitude can probably be attributed to the variety of problems associated with multi-employer certifications.

As in the present labour legislation in Ontario, there are no provisions for multi-employer certification in the Alberta legislation. Mr. K. A. Pugh, the Alberta Deputy Minister of Labour and Chairman of the A.B.I.R., is opposed to multi-employer certification,[49] and it is unlikely that there will be any imminent amendments to the Act permitting this.[50]

In contrast with the situation in Ontario and Alberta, the Manitoba, Nova Scotia, and New Brunswick Boards, have the legislative authority to certify multi-employer bargaining units. However, not one of these Boards has issued this type of certification order, most probably because of 'rigidity' in their existing legislation.

In Manitoba there have been some inquiries from labour organizations in connection with multi-employer certifications but never any applications for such certifications submitted to the Board.[51] After having found out the main difficulty involved in getting a multi-employer unit certified – that a legal requirement for such a unit is the consent to it by all the employers concerned – the enquirers have usually decided to seek certification on an individual-employer basis.[52]

Although the Nova Scotia Board is more favourably disposed to multi-employer certifications than the Manitoba Board, because of the legislative provisions it still has to insist in such cases on the consent of all the employers concerned. Up to the present, Nova Scotia employers have been opposed to such certifications, so the N.S.L.R.B. has never been able to grant them;[53] and there have been instances where the Board has had to reject multi-employer certification applications because of this.[54] A case in point is the rejection of an application by the United Steelworkers of America, Local No. 4253, Trenton, N.S., when they applied to be certified as the bargaining agent for employees of Eastern Car Company Ltd. and Trenton Industries Ltd.[55] The application was dismissed because:

> "the respondent employers of the employees on whose behalf the Applicant sought certification as bargaining agent have not consented thereto as required by Section 9, subsection 3 of the Trade Union Act."

In view of the absence of multi-employer certifications in Nova Scotia, the purpose of the multi-employer certification provisions in the N.S.T.U.A. was discussed with Mr. B. D. Anthony[56] who felt that these were included in the Act mainly to accommodate the construction industry. So far, this industry has not taken advantage of these provisions but it may, of course, in the future.

In the past some unions have objected to the limitations of Section 9(3) of the Act; e.g., the Teamsters, Chauffeurs, Warehousemen & Helpers Union recommended to the Nova Scotia Labour Legislation Fact-Finding Body headed by Judge A. H. McKinnon that Section 9(3)(a) should be deleted from the N.S.T.U.A.[57] The union pointed out that:

> "if, say, the employees of various service stations wish to all be certified as one bargaining agent, it would be practically impossible to obtain the consent of all the employers."

The union suggested that this could be remedied:

> "by having a majority of the employees vote for certification."

The situation in New Brunswick is similar to that in Nova Scotia. The absence of multi-employer certification orders in New Brunswick was well explained in a letter to this writer from Mr. J. C. Tonner, Secretary of the N.B.L.R.B., who wrote:

> "Although the Board is authorized, in Section 8, Subsection 3(a) and (b) of the Act to certify multi-employer units, this is never done due to the difficulties involved in obtaining consent" [which is required under the law from each employer affected. Thus] "It only takes one employer to object, and the application is invalidated."

In another letter Mr. Tonner also wrote that it is:

> "dangerous for unions to apply for multi-employer units, since the objection of a single employer can block certification. Consequently unions in this area have invariably made separate applications."

## Actual and Certified Bargaining Units

Most Labour Relations Boards in Canada oppose the certification of multi-employer bargaining units, nevertheless this type of bargaining is carried out; e.g., in Quebec, 43,000 employees,[58] and in Ontario, 38,000 employees,[59] are covered by agreements negotiated on a multi-employer basis.

In Ontario, many firms that negotiate on a multi-employer basis hold individual certifications. For example, thirteen Toronto dairies[60] negotiate jointly with the Milk and Bread Drivers, Local 647 of the Teamsters, for 1425 employees working in their milk and ice cream distributing and pasteurizing plants in Greater Toronto,[61] and these dairies hold individual certifications.

Another illustration of a group of companies negotiating jointly, but holding individual certifications, deals with interprovincial multi-employer units. In such units each plant of each company is certified individually by the provincial Board concerned. The example is the Imperial Tobacco Company and its subsidiaries in Ontario and Quebec[62] and these companies negotiate jointly and interprovincially with the Tobacco Workers International Union.[63]

Other examples of firms holding separate certification orders, but bargaining jointly, are in the following industries: the Alberta Hotel,[64] construction[65] and printing.[66] These industries have a tendency to bargain on a multi-employer basis in the other provinces as well.

## Observations

Certification orders covering multi-employer bargaining units, despite specific multi-employer certification provisions in six labour relations statutes, are virtually non-existent in most jurisdictions; however, this does not mean that there is no multi-employer bargaining in Canada. As indicated in Appendices M, N, P, S, T, U, W, (which refer to multi-employer bargaining units of 500 or more employees excluding the construction industry) there is a fair amount of multi-employer bargaining despite the existence of relatively few multi-employes certification orders. In Quebec and in Ontario, 81,000 employees are covered by agreements negotiated on a multi-employer basis although there have been no multi-employer certification in these two provinces.

The available data indicate that there is a difference between the certified and the negotiating unit. This can probably be attributed to factors such as: provincial legislative restrictions which prevent the Boards from certifying multi-employer units; the reluctance of the Boards to grant multi-employer certifications; the reluctance of firms to tie themselves to multi-employer certification, even though they might bargain jointly on a contract-by-contract basis; and the con-

stitutional provisions under the British North American Act that limit the jurisdiction of the provincial Boards to provincial boundaries so that a provincial Board could not certify, even if it wanted to, a multi-employer or multi-plant unit on an interprovincial basis.

It sometimes occurs that the unit appropriate for collective bargaining may include more than one employer, or that a business or union may not be limited in their operations to provincial boundaries, so the resulting bargaining set up may be an attempt at circumvention of the legally determined bargaining structure that has developed into an *actual* bargaining situation outside the *certified* bargaining unit. The constitutional inability of Boards to certify interprovincial units in cases where the actual bargaining is being conducted on a multi-plant interprovincial level is a direct outcome of the limitations imposed by a decentralized federalism.[67]

One of the reasons for the non-issuance of multi-employer certifications being carried out in some jurisdictions is the absence of relevant legislative provisions, a situation which can probably be attributed to the attitude of the Boards concerned. However, in the remaining jurisdictions, the cause for the scarcity of multi-employer certifications is probably related to the legislative 'rigidity' in that it necessitates the consent of all employers for certification of multi-employer units. Since such consent is seldom attainable, the present legislative provisions for multi-employer certifications, for all practical purposes, are meaningless. Unless such provisions are amended, their removal from the labour statutes would probably not be missed by anyone. So the question poses itself as to whether or not the labour relations statutes should be amended. If amendments to the Acts are contemplated, these amendments must provide adequate features to ensure the certification of multi-employer bargaining units in those Acts where there are no such provisions at present. In other Acts, where there are multi-employer certification provisions, these could be relaxed by the removal or alteration of the 'consent' clauses.

On the basis of the discussion of the advantages and disadvantages of multi-employer bargaining units at the beginning of this chapter, the writer favours broader legislative discretionary powers for the Labour Relations Boards with regard to this certification of multi-employer units.

# REFERENCE NOTES

## Part I, Chapter 1

1 The National Labor Relations Act of 1935, frequently referred to as the Wagner Act.

2 The term 'collective bargaining' was supposedly coined by Sydney and Beatrice Webb, well known historians of the British Labour movement and was first given general usage in the United States by Samuel Gompers. Cf. DAVEY, Harold W. *Contemporary Collective Bargaining* (Englewood Cliffs, N.J.: Prentice-Hall, 1951), p. 6.

3 *Ibid.*

4 *Ibid.*

5 CHAMBERLAIN, Neil W., "Grievance Proceedings and Collective Bargaining", in LESTER, Richard A. and Joseph SHISTER, Eds. *Insights Into Labor Issues* (New York: Macmillan, 1948), p. 86.

6 Employees engaged in confidential capacity and managerial staff excluded. A detailed examination of the reasons for the exclusion from collective agreements of such employees is made in Part I, Chapter 3, of this study.

7 GAGLIARDO, Domenico. *Introduction to Collective Bargaining* (New York: Harper, 1953), p. 215.

8 *Ibid.*

9 *Ibid.*, p. 228.

10 *Ibid.*

11 GITLOW, A. L. *Labor and Industrial Society* (Homewood, Ill.: Irwin, 1963), p. 432.

12 CHAMBERLAIN, Neil W., "Collective Bargaining in the United States", in STURMTHAL, Adolf, Ed. *Contemporary Collective Bargaining in Seven Countries* (Ithaca: Cornell University Press, 1957), p. 259.

13 In the period 1907-1944 the Conciliation Boards, established under the authority of the Industrial Disputes Investigation Act of 1907, frequently dealt with problems concerning determination of appropriateness of bargaining units and their recommendations undoubtedly had an important impact on the formation of bargaining units in Canada. The main difference, however, between these Boards and the present Labour Relations Boards was the extent of legislative authority of these two bodies. Whereas at present the Labour Relations Boards can compel the parties to accept their decisions, the Conciliation Boards had no such authority.

For a detailed discussion of the impact of Conciliation Boards on the determination of bargaining units in Canada, see: HERMAN, Edward E. *Freedom of Association and Recognition of Labour Organization prior to Order in Council P.C. 1003 of 1944* (Unpublished M. A. Thesis, McGill University, 1962).

14 Wartime Labour Relations Regulations: Dominion Order in Council P.C. 1003. A detailed discussion of developments leading to the enactment of Order in Council P.C. 1003 follows in Part I, Chapter 2, of this study.

15 BROWN, V. and George P. SCHULTZ, "Public Policy and the Structure of Collective Bargaining", in WEBER, Arnold R., Ed. *The Structure of Collective Bargaining* (University of Chicago, Publication of Graduate School of Business, 1961), p. 314.

16 A more detailed examination of policy and legislative developments is provided in Part I, Chapter 2, of this study.

17 Wartime Labour Relations Regulations: Dominion Order in Council P.C. 1003.

18 The National Labor Relations Act of 1935.

19 The United States was the first.

20 To gain certification, assuming a Labour Relations Board approves the bargaining unit proposed by the petitioning union, the labour organization has to have the support of a certain legally determined proportion of employees in the bargaining unit, and the Boards are responsible for the ascertainment of such support. Although this is an important function of the Boards, closely related to the determination of bargaining units, the issue is complex enough to represent enough material for another thesis and therefore very little reference to it is made in this study.

21 Interview: Professor Jacob Finkelman, Chairman, Ontario Labour Relations Board, May 9, 1963.

22 The totals for the number of certification orders issued by Canadian Labour Relations Boards are not complete: they do not include figures for the Prince Edward Island and Newfoundland Boards. They are also not complete for the Alberta Board for which the totals for the years 1953-61 only were available. A word of caution might also be injected here. The totals should not be interpreted as representing the Canadian certified bargaining framework since, from these totals, revocations of certification orders were not subtracted. The sources for the certification order totals are in Appendices, AA, AB, AC, AD, AE, AF, AG, AH, AI, AJ.

23 DUNLOP, John T. *Collective Bargaining Principles and Cases* (Chicago, Ill.: Irwin, 1949), p. 26.

24 *Ibid.*

25 *Ibid.*, p. 27.

26 In all Canadian jurisdictions the law stipulates that a labour organization, in order to be eligible for certification as a bargaining agent for a particular group of employees, has to have a certain percentage of union membership and employee support in the unit; however, the degree of support necessary varies among the jurisdictions. In the following jurisdictions – Alberta (Alberta Labour Act, Section 10), British Columbia (Labour Relations Act, Section 10), Manitoba (Manitoba Labour Relations Act, Section 7), New Brunswick (New Brunswick Labour Relations Act, Section 6), and Newfoundland (Newfoundland Labour Relations Act, Section 7) – an applicant labour organization in order to gain certification, requires only the support of an absolute majority of the employees, of whom all have to be union members.

The majority legislative provisions in the other Canadian jurisdictions – Nova Scotia (Nova Scotia Trade Union Act, Section 7), Ontario (Ontario Labour Relations Act, Section 7(1)), Saskatchewan (Saskatchewan Trade Union Act, Section 3), Prince Edward Island (The Industrial Relations Act, Section 16(4)), and Quebec (Quebec Labour Relations Act, Section 4) – differ considerably and differ as well from the provisions in the statutes of Alberta, British Columbia, Manitoba, New Brunswick and Newfoundland.

27 WOODS, H. D. and S. OSTRY. *Labour Policy and Labour Economics in Canada* (Toronto: Macmillan, 1962), p. 271.

28 *Ibid.*, p. 502.

29 See Appendices L, M, N, O, P, Q, R, S, T, U, V, W.

30 Section 6(1).

31 Sections 12(1) and 65(i).

32 Sections 9(1) and 59(f).

33 Sections 9(1) and 58(f).

34 Sections 8(1) and 55(f).

35 Sections 9(1) and 62(f).

36 Section 16(1).

37 Section 20.

38 Section 63.

39 Section 5(a).

40 The jurisdictional boundaries of Canadian Labour Relations Boards are examined in Part I, Chapter 2, of this study.

41 Limitations on Labour Relations Boards' discretionary powers in determination of multi-employer units are discussed in a later chapter of this study.

42 Decisions relating to type of units concern: office, blue-collar, craft, seasonal, part-time, or security employees.

43 Decisions concerning scope of units refer to single-plant or single-location, multi--plant or multi-location, single-employer or multi-employer units.

44 The sources of these criteria are from a memorandum given to this writer by Mr. K. A. Pugh, Deputy Minister of Labour and Chairman of the Board of Industrial Relations,

Alberta, and a decision of the Quebec Labour Relations Board in the case of International Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers of America, Local 239, Montreal, P.Q. – and – Coca Cola Ltd., Montreal, P.Q. – and – Marcel Duclos et al. File No. 3932-2 R-520 (1962), November 25, 1963.

45 The Labour Relations Board of the Province of Quebec, International Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers of America, Local 239, Montreal, P.Q., – and – Coca Cola Ltd., Montreal, P.Q., – and – Marcel Duclos et al. File No. 3932-2 R-520 (1962), November 25, 1963.

46 *Ibid.*

47 The phrase 'bargaining unit' first emerged in Canadian legislation in the year 1943, in the "Collective Bargaining Act of Ontario"; its legislative origin, however, can be traced to the United States, where it appeared in Labor Disputes Bill S. 2926 introduced by Senator Robert Wagner, Chairman of National Labor Board, to the United States Senate on March 1, 1934. Though this bill was never enacted, the term reappeared a year later in the well-known Wagner Act of 1935. The phrase bargaining unit was not officially in existence in Canada until 1943 but, as a matter of convenience, it is utilized in this study for an analysis of developments which took place much before 1943.

48 See an 1896 agreement between System Division No. 7, Order Railroad Telegraphers of North America, and Canadian Pacific Railway Leased and Operated Lines; the scope of the bargaining unit stipulated in the agreement referred to the "telegraphers engaged in the Traffic and Transportation Department of the Canadian Pacific Railway of Ontario and Quebec Divisions." The agreement defined a telegrapher as "any employee performing the duty of an operator by assignment of proper authority, whether termed Agent, Clerk, or otherwise."

49 See: Agreement between Chicago and North Western Railway Company and The Order of Railway Conductors, 1931, and Canadian Pacific Railway Western Lines, Rates of Pay and Rules governing the Service of Conductors, 1931.

50 "An Act to Aid in the Prevention and Settlement of Strikes and Lockouts in Mines and Industries Connected with Public Utilities." Its short title is 'The Industrial Disputes Investigation Act' of 1907.

51 HERMAN, Edward E. *Freedom of Association* . . . .

**Part I, Chapter 2**

1 The Conciliation Act of 1900, the Railway Dispute Act of 1903, the Conciliation and Labour Act of 1906.

2 WOODS, H. D., "Canadian Collective Bargaining and Dispute Settlement Policy." *Canadian Journal of Economics and Political Science,* 21 (November 1955), p. 461.

3 *Ibid.*

4 WOODS, H. D. and S. OSTRY. *Labour Policy* . . ., p. 53.

5 Then Deputy Minister of Labour, and the architect of the Industrial Disputes Investigation Act.

6 United States Commission on Industrial Relations, Final Report and Testimony, Washington, D.C., 1916, p. 716, cited by WOODS, H. D. and S. OSTRY. *Labour Policy* . . , p. 53.

7 WOODS, H. D., "Canadian Collective Bargaining and Dispute Settlement Policy." *Canadian Journal of Economics and Political Science* (November 1955), p. 455.

8 MACKINTOSH, Margaret, "Government Intervention in Labour Disputes in Canada", Bulletin No. 11, Industrial Relations Series, Department of Labour, Ottawa, 1931, p. 18; cited by WOODS, H. D. and S. OSTRY. *Labour Policy* . . . , p. 54.

9 WOODS, H. D. and S. OSTRY. *Labour Policy* . . . , p. 51

10 *Ibid.*, p. 54.

11 HERMAN, Edward E. *Freedom of Association* . . . .

12 Presently all Canadian labour relations statutes have provisions excluding supervisory employees from their coverage. The antecedents of these provisions are probably the recommendations of the early Conciliation Boards established under the I.D.I. Act.

13 In 1925 British Columbia enacted enabling legislation. Manitoba, Nova Scotia, New Brunswick and Saskatchewan followed suit in 1926, Alberta in 1927, and Quebec and Ontario in 1932.

14 WOODS, H. D. and S. OSTRY. *Labour Policy* . . . , p. 56.

15 WOODS, H. D., "Canadian Collective Bargaining . . .", p. 53.

16 BERNSTEIN, I. *The New Deal Collective Bargaining Policy* (Los Angeles: University of California Press, 1950), p. 18.

17 METZ, H. W. and M. JACOBSTEIN. *A National Labor Policy* (Washington: The Brookings Institute, 1947), p. 3.

18 BERNSTEIN, I. *The New Deal* . . . , p. 25.

19 METZ, H. W. and M. JACOBSTEIN. *A National Labor Policy*, p. 3.

20 *Ibid.*, p. 4.

21 Section 7(a) of the National Industrial Recovery Act stated that:

"Every code of fair competition, agreement, and license approved, prescribed, or issued under this title shall contain the following conditions: (1) that employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; (2) that no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and (3) that employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President." (U.S. Stat. at Large, XLVIII, 195.)

22 METZ, H. W. and M. JACOBSTEIN. *A National Labor Policy*, p. 4.

23 *Ibid.*, p. 13.

24 *Ibid.*, p. 14.

25 Wagner Act, Section 9:

"(a) Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment: PROVIDED, that any individual employee or a group of employees shall have the right at any time to present grievances to their employer.

(b) The Board shall decide in each case whether, in order to insure employees the full benefit of their right to self-organization and to collective bargaining, and otherwise to effectuate the policies of this Act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof."

26 "Where no union existed, this Board determined representatives by a secret ballot election, usually directing the workers to elect a fixed number from each department who in turn selected a plant committee." The role of the plant committee was to act as a bargaining agent for the employees it represented. "Where the Board itself conducted the election, it stipulated that management deal with the representatives, all of whom were employees." Source: National War Labor Board, Bureau of Labor Statistics, Bulletin No. 287, pp. 52-67, referred to by BERNSTEIN, I. *The New Deal* . . . , p. 20.

27 *The Labour Gazette* (February 1937), p. 169.

28 The Industrial Conciliation and Arbitration Act of Alberta, Section 5a (1)(2)(3).

29 Section 5(3) of the amended British Columbia Act stipulated:
"Employees may elect bargaining representatives by a majority vote of the employees affected, but if a majority of the employees affected are members of one trade union, the trade union shall have the right to conduct the bargaining and in that case the officers of the trade union or such persons as the union may elect for the purpose shall be the bargaining representatives on behalf of all employees affected, whether members of the trade union or not."

30 WOODS, H. D. and S. OSTRY. *Labour Policy* . . . , p. 73.

31 HERMAN, Edward E. *Freedom of Association* . . . .

32 *Ibid.*

33 WOODS, H. D. and S. OSTRY. *Labour Policy* . . . , p. 81.

34 See: *Definitions of War Industries*, Section 3, P.C. 1003.

35 *The Labour Gazette* (February 1947), p. 124.

36 See: *Definitions of War Industries*, Section 3, P.C. 1003.

37 WOODS, H. D. and S. OSTRY. *Labour Policy* . . . , p. 71.

38 Section I of the United States National Labor Relations Act, 1935, states:"by encouraging the practice and procedure of collective bargaining and protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or their mutual aid or protection."

39 WOODS, H. D. and S. OSTRY. *Labour Policy* . . . , p. 71.

40 *Ibid.*, p. 57.

41 Labour Management Relations Act of 1947.

42 WOODS, H. D. and S. OSTRY. *Labour Policy* . . . , p. 57.

43 "Troublesome because a large segment of the Dominion jurisdiction concerns national public utilities such as railroads, airline and telecommunication which operate under publicly controlled rates." Source: WOODS, H. D., "American and Canadian Experience: A Comparison", in SHISTER, Joseph, Ben. AARON and Clyde W. SUMMERS, Eds. *Public Policy and Collective Bargaining* (New York: Harper, 1962), p. 4.

44 *Ibid.*

45 WOODS, H. D. and S. OSTRY. *Labour Policy* . . . , pp. 81-82.

46 LORENSTEN, E. and E. WOOLNER. *Fifty Years of Labour Legislation in Canada* (Legislation Branch, Department of Labour, Canada Department of Labour).

47 *The Labour Gazette* (November 1946), p. 1525.

48 For a discussion of differences between the Order in Council P.C. 1003 and the I.R.D.I. Act, see WOODS, H. D. and S. OSTRY. *Labour Policy* . . . , p. 84.

49 See: *Definitions of Wartime Industries*, Section 3, P.C. 1003.

50 The Honorable Humphrey Mitchell.

51 LORENTSEN, E. and E. WOOLNER. *Fifty Years of Labour Legislation* . . . .

52 The Quebec Labour Relations Act, 1944.

53 The Saskatchewan Trade Union Act, 1944.

54 The Prince Edward Island Trade Union Act, 1945.

55 The Alberta Labour Act, 1947.

56 The Ontario Labour Relations Act, 1960, Section 6(2).

57 The British Columbia Labour Relations Act, 1954, Section 10(4) (a)(b)(c). The British Columbia Labour Relations Act, 1961, Section 10(2), (3)(a)(b)(c).

58 SCOTT, F. R., "Federal Jurisdiction over Labour Relations: A New Look" *Industrial Relations Quarterly Review*, 15 (No. 1, January 1960), pp. 31-48.

59 Interviews: Mr. K. A. Pugh, Deputy Minister of Labour, Alberta, May 21, 1963; Mr. B. H. E. Goult, Chief Executive Officer, British Columbia Labour Relations Branch, May 28, 1963.

## Part I, Chapter 3

1 The British Columbia Labour Relations Act (B.C.L.R.A.), Section 2(1).
2 The Manitoba Labour Relations Act (M.L.R.A.), Section 2(i).
3 The Nova Scotia Trade Union Act (N.S.T.U.A.), Section 1(j).
4 The New Brunswick Labour Relations Act (N.B.L.R.A.), Section 2(i).
5 The Newfoundland Labour Relations Act (Nfld. L. R. A.), Section 2(i).
6 The Prince Edward Island Industrial Relations Act (P.E.I.I.R.A.), Section 1(i).
7 The Ontario Labour Relations Act (O.L.R.A.).
8 The Quebec Labour Code (Q.L.C.).
9 The Saskatchewan Trade Union Act (S.T.U.A.).
10 The Alberta Labour Act (A.L.A.).
11 Section 1(m).
12 Section 5.
13 See: O.L.R.A. Section 2, and A.L.A. 55(f).
14 Section 2.
15 Section 2.
16 Section 2(i).
17 Section 1(i).
18 Section 2.
19 Section 2.
20 Section 2(i).
21 Section 2.
22 Police Act, Firemen Act.
23 Section 2.
24 Section 5.
25 Section 1(3)(b).
26 Section 2.
27 Section 2(i).
28 Section 55(j).
29 Section 1(j).
30 Section 2(i).
31 Section 2(i).
32 Section 1(i).
33 Section 2.
34 Section 2(i).
35 Section 2(i).
36 Section 1(i).
37 Section 2(i).
38 Section 1(3)(b).
39 Section 2(a)(i)(ii).
40 Section 55(f).
41 Section 1(j).
42 Section 1(i).
43 Section 2(i).
44 Section 1(i).
45 Section 2(1)(a).
46 Section 5 of the Saskatchewan Trade Union Act stipulates that: "any person having and regularly exercising authority to employ or discharge employees or regularly acting on behalf of management in a confidential capacity" is not an employee under the Act.

47 For instance, the text of legislative provisions in Manitoba and Nova Scotia are different but the practices of the Boards are very similar; on the other hand the legislative texts of Alberta and Ontario are similar but their practices are different.

48 *The Labour Gazette* (May 1909), p. 1228.

49 *Ibid.* (August 1928), p. 837.

50 *Ibid.* (May 1931), p. 517.

51 The Supreme Court of Ontario, May 14th, 1956.

52 *Ibid.*

53 See *Black's Law Dictionary* (St. Paul: West, 4th. ed. 1951), p. 370.

54 See Appendices A, B, C, D.

55 Source: Memorandum by Mr. Bernard Wilson, Chief Executive Officer, O.L.R.B.

56 The Canada Labour Relations Board is referred to as C.L.R.B., the British Columbia Labour Relations Board as B.C.L.R.B., and the Ontario Labour Relations Board as O.L.R.B.

57 However, there is one instance where the O.L.R.B. certified a group of foremen all by themselves in a separate unit. This occurred a long time ago, in 1947, and there has been no certification of foremen in separate units since then. At present the Board has no intention of reviving this practice. (Interview: Professor J. Finkelman, Chairman, O.L.R.B.)

58 Interview with G. W. Reed, Vice-Chairman, Ontario Labour Relations Board, May 9, 1963.

59 See Appendices A, B, C, and D.

60 *Ibid.*

61 *Ibid.*

62 Interview: Mr. D. W. Coton, Registrar, B.C.L.R.B., May 28, 1963.

63 QUESTIONNAIRE – REPORT OF INVESTIGATION
Name and occupation of person concerned . . .
Date on which present occupation assumed . . .
By whom was person appointed to this position . . .
Present salary . . .
With what other classification(s) does his salary compare . . .
How many employees are under his direction . . .
Are his duties strictly supervisory . . .
Does he have authority to hire and fire . . .
To what extent has he exercised such authority . . .
To what extent is this authority qualified or subject to higher authority . . .
Does he act on the employer's behalf in the disposition of grievances . . .
To what extent has he been called upon to do so . . .
Is he engaged in a confidential capacity in matters relating to labour relations . . .
Nature of management function exercised, if any . . .

64 Bulletin of Summary of Activities, Week ending October 11, 1963, Department of Labour, British Columbia, p. 4.

## Part I, Chapter 4

1 For a more detailed discussion, see Part I, Chapter 1: "Significance of the Boards' Decisions."

2 COLEMAN, J. R., 23rd. Conference, Canadian Association of Administrators of Labour Legislation. *The Labour Gazette* (November 1964), p. 956.

3 For a detailed discussion of bargaining unit determination criteria applied by Labour Relations Boards see Part I, Chapter 1.

4 COLEMAN, J. R. *The Labour Gazette* (November 1964), p. 956.

5 N.L.R.B. vs. C. A. Lund Co., 104F (2d) 815 C.C.A. 8th., 1939, affecting C. A. Lund Co., 6 N.L.R.B. 423 (1938).
6 COLEMAN, J. R. *The Labour Gazette* (November 1964), p. 956.
7 GITLOW, A. L. *Labor and Industrial Society* (Homewood, Ill.: Irwin, 1963), p. 429.
8 *Ibid.*, p. 430.
9 *Ibid.*
10 *Ibid.*
11 *Ibid.*, p. 431.
12 *Ibid.*
13 CRAIG, Alton. *The Structure of Collective Bargaining in Canada.* A research proposal, Department of Labour, Economics and Research Branch, pp. 9-10.
14 REYNOLDS, Lloyd G. *Labour Economics and Labour Relations* (Englewood Cliffs, N.J.: Prentice-Hall, 1964), p. 163.
15 *Ibid.*, p. 163.

## Part II, Chapter 1

1 DUNLOP, John T. *Collective Bargaining Principles and Cases* (Chicago: Irwin, 1949), p. 27.
2 REYNOLDS, Lloyd G. *Labor Economics and Labor Relations,* 2nd. ed. (Englewood Cliffs, N.J.: Prentice-Hall, 1954), p. 315.
3 WOODS, H. D. and S. OSTRY. *Labour Policy . . .*, p. 76.
4 Section 8.
5 Section 11.
6 Section 8.
7 Section 7.
8 Section 8.
9 R.S.O. 1960, C. 202, S. 6.
10 R.S.M., C. 132, S. 8; A.M.S.M. 1957, C. 36, S. 6.
11 Section 7 of the Manitoba Labour Relations Act stipulates conditions for 'Application for Certification of Bargaining Agent'.
12 Section 8.
13 Correspondence with Mr. C. R. McQuaid, Chairman, P.E.I. Labour Relations Board, August 21, 1963.
14 Ontario Labour Relations Act, Section 6(2).
15 WOODS, H. D. and S. OSTRY. *Labour Policy . . .*, p. 103.
16 *Ibid.*
17 O.L.R.B., International Association of Bridge, Structural and Ornamental Iron Workers, Local 721, affiliated with the American Federation of Labour, Applicant; — and — Art Wire & Iron Co. Ltd., Canadian Ornamental Iron Co. Ltd., Cunningham & Lea Ltd., Luxfer Prism Co. Ltd., Norris Iron Works Ltd., The Pengelly Iron Works Ltd., Shipway Iron Co., Respondents; J. Finkelman, for the majority, April 28, 1954.
18 *Ibid.*
19 This attitude of the O.L.R.B. is evident from the case of International Association of Bridge, Structural and Ornamental Iron Workers, Local 721, affiliated with the American Federation of Labour, Applicant; — and — Art Wire & Iron Co. Ltd., Canadian Ornamental Iron Co. Ltd., Cunningham & Lea Ltd., Luxfer Prism Co. Ltd., Norris Iron Works Ltd., The Pengelly Iron Works Ltd., Shipway Iron & Wire Co., Respondents; April 28, 1954, where the Board in its reasons for judgment expressed the view that in so far as "the United States is concerned, the Board found by the evidence submitted that there

is an established trade union practice there for architectural and ornamental iron workers to bargain separately and apart from other employees through the International Association of Bridge, Structural and Ornamental Iron Workers or its locals. In Canada, a similar bargaining pattern is emerging but it cannot be said that the practice in this regard has gained widespread or general acceptance in this industry in Canada." The Board hesitated to say on the evidence presented that "the practice has become established in Canada or in Ontario." The Board expressed the opinion, however, "that the Applicant, Local 721, does not have to rely in these cases solely on the practice in Ontario. Subsection 2 of Section 6 does not contain any geographic limitations, undoubtedly in recognition of the facts of economic life on this continent. Conditions which give rise to certain industrial patterns in the United States usually find their counterpart in Canada."

20 Interview: Mr. E. Etchen, Director of Research, O.L.R.B., May 9, 1963.

21 The case of Patternmakers' Association of Hamilton & Vicinity, Petitioner; and The Steel Company of Canada, Ltd., Respondent; and United Steel Workers of America, Local 1005, Intervener; March 26, 1946.

22 C.L.R.B., Ottawa, August 11, 1959.

23 The case concerned the following five companies: Saskatchewan Wheat Pool, Eastern Terminal Elevator Company, Manitoba Pool Elevators, McCabe Grain Company and United Grain Growers; C.L.R.B., Ottawa, March 11, 1959.

24 C.L.R.B., Ottawa, March 11, 1959.

25 *Canadian Labour Law Reporter,* p. 12037.

26 The Manitoba Labour Board is hereinafter referred to as M.L.B.

27 The Manitoba Regulation 12/53.

28 The Saskatchewan Labour Relations Board is hereinafter referred to as S.L.R.B.

29 Decisions of the S.L.R.B. for the year 1945, p. 141 — The University of Saskatchewan Employees' Union, chartered by Canadian Congress of Labour, Applicant, and The University of Saskatchewan, Respondent.

30 *Ibid.*

31 Interview: Judge A. Gold, Vice-President, Q.L.R.B., June 28, 1963.

32 *Ibid.*

33 The case of the National Union of Operating Engineers of Canada, Local 14850, District 50, United Mine Workers of America, 1550 St. Catherine Street West, Montreal, P.Q., Petitioner; — and — Continental Can Company of Canada Ltd., 155 Beaubien Street West, Montreal, P.Q., Respondent; — and — Fraternité Internationale des Ouvriérs de la Pulpe, du Sulfite et des Moulins à Papier, Local 841, 1500 Stanley Street, Montreal, P.Q., Intervener. Q.L.R.B. File No. D 259, January 31, 1962. *Bulletin Mensuel d'Information.*

34 The case of National Union of Operating Engineers, Local 14850, Petitioner; and General Cigar Company Ltd., Respondent; and Tobacco Workers Inc. Union, Local 237, Intervener; File 534-2-3, June 30, 1961.

35 To support this contention the Q.L.R.B. referred to William RANDLE, *Collective Bargaining, Principles and Practices* (Cleveland: Western Reserve University, 1951), p. 111, where the author, referring to the National Labour Relations Board, had this to say: "Also, if the work of the craft is closely integrated with the manufacturing process, the Board has frowned upon separation."

36 Interview: Mr. W. H. Sands, Deputy Minister of Labour and Chairman, B.C.L.R.B., May 30, 1963.

37 Interview: Mr. D. W. Coton, Registrar, B.C.L.R.B., May 28, 1963.

38 The Alberta Board of Industrial Relations is hereinafter referred to as A.B.I.R.

39 The International Union of Operating Engineers, Local No. 703, Calgary, Alberta, Applicant; and Canada Creosoting Company Ltd., Calgary, Alberta, Respondent; and International Chemical Workers Union, Local No. 405, Calgary, Alberta, Intervener; A.B.I.R., March 18, 1957.

40 *Ibid.*

41 Interviews: Mr. K. A. Pugh, Chairman, A.B.I.R., May 21, 1963, and Mr. French, Secretary, A.B.I.R., May 21, 1963.

42 The International Union of Operating Engineers, Local No. 885, Lethbridge, Applicant; — and — Canadian Sugar Factories Ltd., Raymond, Taber and Picture Butte, Respondent; — and — Raymond Sugar Factory Employees' Federal Union No. 118, Raymond, Intervener; — and — Taber Sugar Factory Employees' Federal Union No. 383, Taber, Intervener; — and — Picture Butte Sugar Factory Employees' Federal Union No. 117, Picture Butte, Intervener.

43 In its reasons for judgment the A.B.I.R. also gave consideration to the case affecting the Manitoba Sugar Company Ltd. and the Manitoba Labour Board. For this case see under this chapter: "The Manitoba Labour Board."

44 The Labour Relations Board of Newfoundland is excluded from this analysis because of lack of data on its operations.

45 The Nova Scotia Labour Relations Board, hereinafter referred to as N.S.L.R.B.

46 The New Brunswick Labour Relations Board, hereinafter referred to as N.B.L.R.B.

47 The Prince Edward Island Labour Relations Board, hereinafter referred to as P.E.I.L.R.B.

48 Interview: Mr. Byron D. Anthony, Director of Labour Relations, Nova Scotia Department of Labour, May 7, 1963.

49 Correspondence: Mr. J. C. Tonner, Secretary, N.B.L.R.B., October 22, 1963.

50 Correspondence: Mr. C. R. McQuaid, Chairman, P.E.I.L.R.B., August 21, 1963.

51 Interview: Mr. J. L. MacDougall, Secretary, C.L.R.B., September 26, 1963.

52 *Ibid.*

53 The case of International Brotherhood of Electrical Workers, and International Association of Machinists, Applicants; and Canadian National Railways and Canadian Brotherhood of Railway Employees and Other Transport Workers, Interveners; C.L.R.B., Ottawa, September 6, 1950.

54 *Ibid.*

55 *Ibid.*

56 M.L.B. Reason for Decision, March 15, 1951.

57 Interview: Mr. M. T. McKelvey, Registrar, M.L.B., May 14, 1963.

58 The case of the International Association of Bridge, Structural and Ornamental Iron Workers, Local No. 728, Applicant, seeking certification as bargaining agent for certain employees of Grand Rapids Constructors, Employer; and the International Union of Operating Engineers, Local 901; Building Material Drivers, Warehousemen and Helpers Local 914; United Brotherhood of Carpenters and Joiners of America, Local 343; and Building and Common Labourers, Local 101; jointly certified, Bargaining Agent and Agreement Holder.

59 Interview: Mr. M. T. McKelvey, Registrar, M.L.B., May 14, 1963.

60 *Ibid.*

61 Interview: Mr. P. G. Makaroff, Chairman, S.L.R.B., May 16, 1963.

62 *Decisions of the S.L.R.B.* (1947-1948), p. 35.

63 The case of the Patternmakers' Association of Hamilton and Vicinity, Petitioner; and The Steel Company of Canada Ltd., Respondent; and The United Steelworkers of America, Local 1005, Intervener; March 26, 1946.

64 The United Steelworkers held a certification order issued by the Labour Court of Ontario on April 6, 1944. The order was for "all the hourly and production employees" at the Hamilton Works of the Respondent, including the Patternmakers.

65 Interview: Professor J. Finkelman, Chairman, Ontario Labour Relations Board, May 9, 1963.

66 Interview: Mr. Colin Young, ex-member Ontario Labour Relations Board, April 26, 1963.

67 Interview: Professor J. Finkelman, Chairman, Ontario Labour Relations Board, May 9, 1963.

68 The case of the Canadian Union of Operating Engineers, Applicant; and Canada Foundries and Forgings Ltd., Respondent; and the International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (U.A.W.), affiliated with the AFL and CIO, Local 275-UAW-ADL-CIO, Intervener; April 25, 1961; File No. 2 728-60 R.

69 *Ibid.*

70 *Ibid.*

71 The case of the United Brotherhood of Carpenters and Joiners of America, Applicant; and Kent Tile & Marble Company Ltd., Respondent; and Tile Setters, Marble Masons, Terrazzo Workers & Composition Tile Layers Union No. 16, Intervener; April 27, 1961, O.L.R.B. File No. 734-60-E, April 27, 1961.

72 *Ibid.*

73 *Ibid.*

74 The case of The Canadian Union of Operating Engineers, Applicant; and Sheraton Brock Hotel, Respondent; and Hotel and Restaurant Employees Union, Local 442, Intervener; May 11, 1961.

75 Interview: Judge A. Gold, Vice-President, Q.L.R.B., June 27, 1963.

76 National Union of Operating Engineers of Canada, Local 14850, District 50, United Mine Workers of America, 1500 St. Catherine Street West, Montreal, P.Q., Petitioner; and Continental Can Company of Canada Ltd., 155 Beaubien Street West, Montreal, P.Q., Respondent; and Fraternité Internationale des Ouvriers de la Pulpe, du Sulfite et des Moulins à Papier, Local 841, 1500 Stanley Street, Montreal, Intervener. Q.L.R.B. File No. D 259, January 31, 1962. *Bulletin Mensuel d'Information.*

77 To support this contention the Board referred to Section 6 of the Q.L.R.A., as well as to the case of Henry Morgan & Company Ltd., versus the Quebec Labour Relations Board and l'Union Fédérale des Employés de Magasins, Local 1539, Canadian Labour Congress, 1961, K.B. page 672, before the Court of Appeal which held that: "The Labour Relations Commission has all discretionary powers to determine which employees may form a distinct group for Labour Relations Law Purposes."

78 Interview: Mr. B. Wilson, Chief Executive Officer, C.L.R.B., July 4, 1963.

79 Interview: Mr. D. W. Coton, Registrar, B.C.L.R.B., May 28, 1963.

80 *Ibid.*

81 Interview: Mr. W. H. Sands, Deputy Minister of Labour and Chairman, B.C.L.R.B., May 30, 1963.

82 *Ibid.*

83 The case of Canadian Collieries Resources Ltd. (Flavelle Cedar Division), Port Moody, and the International Union of Operating Engineers, Local 882, Applicant; petition for certification of April 25, 1960.

84 The case of Brownlee Industries Company Ltd., North Surrey, and the International Union of Operating Engineers, Local 882, Applicant; petition for certification of April 25, 1960.

85 Department of Labour, British Columbia, *Bulletin of Summary of Activities* (July 29, 1960), p. 5.

86 Paper by Mr. K. A. Pugh, May 21, 1963.

87 The case of the International Union of Operating Engineers, Local 703, Calgary, Applicant; and Canadian Industries Ltd., Calgary, Respondent; and the International Chemical Workers' Union, Local 460, Calgary, Intervener.

The case of the International Union of Operating Engineers, Local 885, Lethbridge, Applicant; and Canadian Sugar Factories Ltd., Raymond, Taber and Picture Butte, Respondent; and Raymond Sugar Factory Employees' Federal Union No. 118, Raymond, Intervener; and Taber Sugar Factory Employees Federal Union No. 383, Taber, Intervener; and Picture Butte Sugar Factory Employees' Federal Union No. 117, Picture Butte, Intervener.

88 The International Union of Operating Engineers, Local No. 703, Calgary, Alberta, Applicant; and Canada Creosoting Company Ltd., Calgary, Alberta, Respondent; and the International Chemical Workers Union, Local No. 405, Calgary, Alberta, Intervener; A.B.I.R., March 18, 1957.

89 *Ibid.*

90 The Prince Edward Island Labour Relations Board – unlike that of New Brunswick – objects to certifying, under any circumstances, craft units as distinguished from units of other types. Source: Correspondence: Mr. C. R. McQaid, Chairman, P.E.I.L.R.B., August 21, 1963.

91 A case in point is Moirs Ltd., when the N.S.L.R.B. certified an industrial unit on December 13, 1956, and then fourteen months later, on February 18, 1958, the N.S.L.R.B. carved out a craft unit of electricians from the certified all-employee unit of Moirs Ltd. On December 13, 1956, the N.S.L.R.B. certified the "Teamsters, Chauffeurs, Warehousemen and Helpers, Local No. 827, and Bread, Cake, Biscuit, Crackers, Candy Confectionery and Miscellaneous Workers, Local Union No. 446, Halifax, N.S., as joint bargaining agents for a bargaining unit consisting of all employees of Moirs Ltd., Halifax, N.S., but excluding foremen and above that rank, office employees and those excluded by Clause (i) of paragraph (j) of Section 1 of the Trade Union Act." N.S.L.R.B. Certificate No. 458. On February 18, 1958, the N.S.L.R.B. certified the "International Brotherhood of Electrical Workers, Local Union No. 625, 168 Windmill Road, Dartmouth, N.S., as the bargaining agent for a craft unit consisting of electricians and helpers in the electrical department of Moirs Ltd., but excluding foremen and above that rank, office employees and those excluded by Clause (i) of paragraph (j) of Section 1 of the Trade Act." N.S.L.R.B. Certificate No. 528.

92 McKINNON, A. H. *Report of Fact-Finding Body re Labour Legislation* (Antigonish, N.S.: February 1, 1962), p. 70.

93 *Ibid.*

**Part II, Chapter 2**

1 Interviews: Mr. J. L. MacDougall, Secretary, C.L.R.B., July 4, 1963; Mr. D. W. Coton, Registrar, B.C.L.R.B., May 28, 1963; Mr. M. T. McKelvey, Registrar, M.L.B., May 14, 1963; Mrs. I. Jones, Secretary, S.L.R.B., May 16, 1963. Correspondence: Mr. C. R. McQuaid, P.E.I.L.R.B., August 21, 1963.

2 Interview: Mr. D. W. Coton, Registrar, B.C.L.R.B., May 28, 1963.

3 University of Saskatchewan Employees' Union, Applicant; and the University of Saskatchewan, Respondent. Decisions of the S.L.R.B. for the year 1945, p. 93.

4 The Laundry Workers' Union, Local No. 3, Applicant; and Moose Jaw Steam Laundry Company Ltd., Respondent. Decisions of the S.L.R.B. for the year 1945, p. 11.

5 The United Brotherhood of Carpenters and Joiners of America (U.B.C.J.A.), Local 2831, Applicant; and R. L. Cushing Millwork Company Ltd., City of Moose Jaw, Saskatchewan, Respondent. Decisions of the S.L.R.B. for the year 1945, p. 64.

6 Interview: Mr. W. H. Sands, Deputy Minister of Labour and Chairman, B.C.L.R.B., May 28, 1963.

7 *The Labour Gazette* (February 1963), p. 142.

8 Department of Labour, British Columbia. *Summary of Activities,* Vol. 6, Nos. 29-30.

9 Interview: Mr. M. T. McKelvey, Registrar, M.L.B., May 14, 1963.

10 *Ibid.*

11 *Saskatchewan Industrial Relations Report* (June-July 1961).

12 Canada Department of Labour News Release No. 6035, August 17, 1963.

13 Department of Labour, British Columbia. *Summary of Activities,* Vol. 6, No. 22.

14 The Manitoba Labour Board, News Release, June 17, 1960.

15 *Saskatchewan Industrial Relations Report* (June-July 1963), p. 8.

16 *The Labour Gazette* (May 1959), p. 473.

17 Department of Labour, British Columbia. *Bullettin of Summary of Activities* (May 20, 1960), p. 4.

18 The Manitoba Labour Board, June 27, 1947.

19 There are very few separate certifications of office employees in Saskatchewan; the office employees' union is very weak in the province. Interview: Mrs. I. Jones, Secretary, S.L.R.B., May 16, 1963.

20 *Saskatchewan Industrial Relations Report* (May 1963), p. 6.

21 The examination of the O.L.R.B. practices and principles with regard to certification of office bargaining units is based on an unpublished paper entitled *Office Bargaining Units in Ontario* prepared in 1961 by J. FINKELMAN, Chairman, Ontario Labour Relations Board.

22 *Ibid.*

23 The Gray Case (1955) C.C.H. *Canadian Labour Law Reports* (Transfer Binder 1955-59), 16,011; C.L.S. 76-471.

24 FINKELMAN, J. *Office Bargaining Units* . . . .

25 *Ibid.*

26 *Ibid.*

27 *Ibid.*

28 International Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers of America, Local 239, and Coca Cola Ltd., Montreal, and Marcel Duclos *et al.* File No. 3932-2 R-520 (1962), November 25, 1963.

An example of separate certification of office employees by the Q.L.R.B. is the certification of The Syndicat National des Employés de l'Aluminum d'Alma (Section des Employés de Bureau) as bargaining agent for all office, clerical, laboratory, designing room employees, except plant manager and his assistant, personnel director and assistant, superintendents, private secretaries of executives, supervisors, foremen, industrial relations and time study people, police and safety force, hospital attendants, safety inspectors, switchboard operators, teletypists, etc., of Aluminum Company of Canada Ltd., Isle Maligne. Q.L.R.B. File No. 2207-3, March 24, 1961, *Bulletin Mensuel d'Information* (July 1961), p. 36.

29 Interview: Mr. K. Pugh, Chairman, A.B.I.R., May 21, 1963.

30 The following examples illustrate the most common certification orders issued by the A.B.I.R. — for excluding office employees from plant units and for certifying office employees in separate bargaining units.

In the case of the United Brotherhood of Carpenters and Joiners of America, Local 2508, Calgary, Applicant; and Stoy Cement Co. Ltd., Calgary, Alberta; the A.B.I.R. excluded office employees from the certified plant unit. The bargaining unit certification for the applicant union read as follows: "all employees engaged in the precasting of concrete members, with the exception of office employees and those with the right to hire and fire." Source: Bulletin on Activities of the A.B.I.R., October 1, 1961, to December 31, 1961. Certification Order 125-61.

An illustration of the A.B.I.R. certifying office employees in separate bargaining units from plant employees concerns the National Union of Public Employees, Local Union No. 845, School District No. 4679, Jasper Place, Alberta. The applicant union was certified by the A.B.I.R. as a bargaining agent for: "all clerical employees including clerk stenographers, clerk typists, clerks, assistant secretary treasurer, excluding the secretary treasurer." Source: Bulletin on Activities of the A.B.I.R., October 1, 1961 to December 31, 1961. Certification Order No. 143-61.

31 On February 28, 1951, the A.B.I.R. certified the Red Deer Civic Employees Federal Union No. 417, The Trades and Labour Congress of Canada, Red Deer, Alberta, as bargaining agent for a unit of employees of the City of Red Deer, Alberta, comprising: "all employees (excepting electrical workers) of the employer, including all of the

employees of the Public Works Department, the Parks Department, the Fire Department. office staff, excluding supervisors and those with the authority to hire and fire."

32 The Gray Case (1955) C.C.H. *Canadian Labour Law Reports* (Transfer Binder, 1955-59), 16,011; C.L.S. 76-471.

33 In July, 1944, the W.L.R.B. certified the National Harbours Board Employees Federal Union 24 as the bargaining agent for a unit of employees, including patrolmen, employed by the Harbour Board at Saint John, N.B. The employer opposed the inclusion of patrolmen in the unit on the grounds that they were confidential employees, and that their duties included the control of traffic, the prevention of smoking, and the guarding of company property. The Applicant stated that the patrolmen were not sworn in as police officers and should be included. Probably the fact that they were not sworn in was the deciding factor in the Board's verdict of including patrolmen in the same bargaining unit with the other employees of the Harbours Board.

34 See Appendix E.

35 The following cases illustrate separate certifications of security personnel by the C.L.R.B.:

The C.L.R.B. certified the National Harbours Board Police Association of Halifax, N.S., an affiliate of The Civil Service Federation of Canada, as the bargaining agent for a unit of sergeants and patrolmen employed in the Police Department of the National Harbours Board at Halifax, N.S. Source: Canada Department of Labour, News Release 6001, June 7, 1963.

Another example is a certificate granted to Vancouver Harbour Employees' Association on behalf of a unit of security men employed by the National Harbours Board at the Port of Vancouver, B.C. In this particular case the employer stated that the duties of the security employees were to protect against pilfering, watch for fire, provide vehicular traffic control, and deal with any emergencies such as broken water line. On patrol these employees made regular rounds, punched clocks throughout the sheds and dock areas, and controlled the gate between 5 p.m. and 8 a.m. Source: *The Labour Gazette* (September 1961), p. 913.

36 An example of such certification is case 766; 1129; 61 — Marconi Salaried Employees Association (Special Service Division) and Canadian Marconi Company Limited, where a unit of salaried employees was certified on June 8, 1961, which included a security guard and a janitor, among other employees. Source: *The Labour Gazette* (August 1961), p. 799.

37 An example is the case of Canadian Airways Lodge 764, International Association of Machinists, who applied for certification on behalf of guards and watchmen employed by Canadian Pacific Airlines Ltd., at Vancouver Airport. The guards were responsible for reporting fire hazards, and in case of fire were supposed to assist the Fire Department. They were also charged with guarding against trespassers and checking plant visitors. However, they were not armed nor sworn in as special constables, and they were not permitted to search persons or vehicles. Because the Board did not consider the duties they performed as police functions, the application of the I.A.M. was rejected. C.L.R.B., August 1951, Case 766:227.

38 See: U.S. National Labor Relations Board *Fifteenth Annual Report* (Washington, D.C.: 1950), pp. 50-51.

39 Section 9 of the O.L.R.A. stipulates that: "The Board shall not include in a bargaining unit with other employees a person employed as a guard to protect the property of his employer, and no trade union shall be certified as bargaining agent for a bargaining unit of such guards and no employer or employers' organization shall be required to bargain with a trade union on behalf of any person employed as a guard if, in either case, the trade union admits to membership or is chartered by, or is affiliated, directly or indirectly, with an organization that admits to membership persons other than such guards." R.S.O. 1950, c. 194, s. 8; 1954, c. 42, s. 3.

40 An example of the exclusion of guards from a mixed bargaining unit by the O.L.R.B. is the case of the international union, United Automobile, Aircraft and Agricultural Implement Workers of America (UAW) and the Link & Belt Speeder Canada Ltd. (O.L.R.B. File No. 2954-61-R.)

In this particular case the Board decided that the appropriate unit should be composed of: "all employees of the Respondent in the Township of East Oxford, save and except

foremen, persons above the rank of foreman, office staff, security guards and students hired for the school vacation period." (29 employees in the unit.)

41 An example of a separate certification of guards by the O.L.R.B. is the case of Canadian Guards Association and Aluminum Company of Canada Ltd. In this case the Board declared that an appropriate unit would be one consisting of: "all security guards of the Respondent at its Kingston Works, save and except sergeants, persons above the rank of sergeant and students hired for the school vacation period."

42 See International Association of Machinists, Lodge 2235, Applicant; versus Dominion Engineering Works Ltd., Respondent. W.L.R.B. File No. D-362, *Bulletin Mensuel d'Information* (mars 1961), p. 21.

43 An example of separate certification of guards from other plant employees by the Q.L.R.B. is the case of the international Association of Machinists, Lodge 2235, Applicant; and Dominion Engineering Works Ltd., 1st Avenue, Lachine, P.Q., Respondent.

In this particular case the Q.L.R.B. certified the applicant union as a bargaining agent for: "all hourly-rated employees of Dominion Engineering Works Ltd. employed in the Police Department as Guards, except Lieutenants and all other ranks above that, office employees, and all those automatically excluded by Section 1, Article 2, paragraphs 1, 2 and 3 of the Labour Relations Act of the Province of Quebec." Source: Q.L.R.B. File D-362, *Bulletin Mensuel d'Information* (mars 1961), p. 21.

44 Interview: Judge A. Gold, Vice-President, Q.L.R.B., June 27, 1963.

45 An example of separate certification of guards by the B.C.L.R.B. is the certification of the International Brotherhood of Pulp, Sulphite, and Paper Mill Workers, Local No. 708, AFL, as a bargaining agent for: "those employed as guards, watchmen and first aid attendants at Watson Island, B.C., by the Calgar Ltd., Prince Rupert Pulp Division and Research and Development Division, 1030 West Georgia Street, Vancouver, B.C." Source: B.C.L.R.B. Certification order granted on February 13, 1956.

46 Interview: Mr. D. W. Coton, Registrar, B.C.L.R.B., May 28, 1963.

47 An example of security guards being excluded by the A.B.I.R. from an all-employee unit is a certification order issued to the International Brotherhood of Pulp, Sulphite and Paper Mill Workers, Local No. 885, Hinton, Alberta, as a bargaining agent for: "all employees of North Western Pulp and Power Ltd. employed at the plant site at Hinton, Alberta, save and except security guards and employees of the company employed in the Woodlands Division at Hinton, Alberta." A.B.I.R. Certificate No. 11-57, January 23, 1957.

In most cases the security guards in Alberta are members of the Corps of Commissionaires and in virtue of this are excluded from the coverage of the A.L.A.

48 Interviews: Mr. McKelvey, M.L.R.B., May 14, 1963; Mr. French, Secretary, A.B.I.R., May 21, 1963.

49 On November 20, 1959, the S.L.R.B. certified the United Steelworkers of America as the bargaining agent for: "all plant employees of Dominion Bridge Co. Ltd. employed within or upon its premises located at 12th Avenue and Francis Street, in the City of Regina, Saskatchewan, except: Employees whose principal duties involve the protection and security of the Company property including watchmen and firemen."

50 On June 14, 1963, the N.S.L.R.B. certified the Office and Technical Workers, United Steelworkers of America, Trenton, N.S.: "as the bargaining agent for a bargaining unit consisting of all office, clerical and technical employees of the Dominion Steel & Coal Corporation, Ltd., Trenton Works, Trenton, N.S., at its offices at Trenton, Nova Scotia, excepting . . . security guards."

51 In a letter dated October 23, 1963, Mr. J. C. Tonner, Secretary of the N.B.L.R.B., wrote that he knew of: "no case where the guards or watchmen have been included in an industrial unit with production workers."

An example of a certified bargaining unit from which guards and watchmen have been excluded is a certification order of August 31, 1962, when the N.B.L.R.B. certified the International Brotherhood of Electrical Workers Local Union No. 2121: "as the bargaining agent for all employees of the Atholville, N.B. Plant of Radio Engineering Products Ltd. except office staff, superintendents, non-working foremen and watchmen and guards exclusively employed as such." Certificate No. 680.

52 In a letter dated October 23, 1963, Mr. J. C. Tonner, Secretary of the N.B.L.R.B., wrote that he was certain that: "an application to certify a unit of guards separately, if the number warranted it, would be entertained by the N.B.L.R.B. and that he could think of no reason why it should not be certified."

53 The following cases illustrate the description of bargaining units by the Ontario Labour Court and by the O.L.R.B. in its first few years of operation in terms of hourly-paid employees. In the case of the Aluminum Company of Canada Ltd. (Kingston Works) and The Employees' Council, Aluminum Company of Canada Ltd. (Kingston Works). the Labour Court declared that: "all the hourly-paid employees, excluding supervisors and guards of the Respondent Aluminum Company of Canada Ltd. (Kingston Works) constitute a unit of employees of the said Respondent at its Kingston Works, appropriate for the purpose of collective bargaining within the meaning of the Collective Bargaining Act, 1943." Ontario Labour Court, December 9, 1943.

On November 9, 1944, in the case of United Electrical, Radio and Machine Workers of America, and Local 529, Petitioners, and Packard Electric Co. Ltd. (St. Catharines), Respondent, the O.L.R.B. stated that: "the persons entitled to vote were the hourly-rated and piece work production employees and hourly-rated factory and clerical staff of the respondent company, save and except foremen and those above the rank of foremen." O.L.R.B. File 17/47, November 9, 1944.

54 Interview: Professor Jacob Finkelman, Chairman, O.L.R.B.

55 The International Union, United Automobile Aircraft and Agricultural Implement Workers of America (U.A.W.), Applicant; and Duplate Canada Ltd., Oshawa, Ontario, Respondent; June 2, 1960.

56 Interview: Mr. M. T. McKelvey, Registrar, M.L.B., May 14, 1963.

57 Interview: Mrs. I. Jones, Secretary, S.L.R.B., May 16, 1963.

58 Interview: Mr. Fournier, Conciliation Officer, C.L.R.B., December 2, 1965.

59 International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-AFL-CIO, Local 698, Applicant; versus Cummings Motors Ltd. (Montreal), Respondent. The applicant union was certified as the bargaining agent for: "all hourly-paid employees, except foremen and those above the rank of foremen and office employees and those automatically excluded by Section 2, paragraph (a), sub-paragraph 1, 2 and 3 of the Act." Q.L.R.B., File No. 7108, Certificate issued December 1960, *Bulletin Mensuel d'Information* (février 1961), p. 36.

Another example is the case of Lodge 869, International Association of Machinists, Applicant; versus Bristol Aero Industries Ltd. (Aviation Service Division), Respondent. The applicant union was certified as a bargaining agent: "for all hourly-rated employees except foremen and office employees." Q.L.R.B., File No. 4564-5, Certificate issued May 18, 1961, *Bulletin Mensuel d'Information* (septembre 1961), p. 37.

60 The following cases illustrate certification orders issued by the A.B.I.R. and the N.B.L.R.B. for units of hourly-paid employees:

The A.B.I.R. certified the Alberta Oil Tool Employees Association, Edmonton, as a bargaining agent for: "all hourly employees of the Alberta Oil Tool Company Ltd., Edmonton, Alberta, who are employed in or about the shop, excluding office help and foremen with the right to hire and fire." *Bulletin on the Activities of the A.B.I.R.* (October 1, 1961 to December 31, 1961), Certification Order No. 119-61.

The N.B.L.R.B. certified the Bathurst & District Mine Mill & Smelter Workers Union, Local 1029, I.U. of M.M.S.W. (Canada) as the bargaining agent for: "all employees on hourly-rates in the crafts, departments and plants at the Wedge Mining Property of Consolidated Mining & Smelting Co. of Canada Ltd., Bathurst, N.B.", with some exceptions. Certificate No. 625, May 26, 1961.

61 Interviews: Mr. French, Secretary, A.B.I.R., May 21, 1963; Mr. D. W. Coton, Registrar, B.C.L.R.B., May 26, 1963; Mr. Byron D. Anthony, Director of Labour Relations, Nova Scotia Department of Labour, May 7, 1963. Correspondence: Mr. J. C. Tonner, Secretary, N.B.L.R.B., October 22, 1963.

62 Interview: Mr. D. W. Coton, Registrar, B.C.L.R.B., May 22, 1963.

## Part II, Chapter 3

1 It should be noted that the terms casual and temporary employees are frequently used in a similar context. The reason for this is the lack of clear distinction in the application of these terms in certification decisions by Labour Relations Boards. The Boards seem to use these terms interchangeably to designate employees who are hired for a limited period of time each year. The terms usually refer to the following categories of employees:

a) those engaged on a seasonal basis in seasonal industries, such as construction, woodlands or longshoring.

b) those hired for the summer months as vacation replacements in industries operating on a year-round basis.

2 See: Section 28, Manitoba Regulation 12/53, Rules of Procedure and Practice for the Administration of the Labour Relations Act.

3 Interview: Mr. D. W. Coton, Registrar, B.C.L.R.B., May 28, 1963.

4 Interview: Mr. Byron D. Anthony, Director of Labour Relations, N.S. Department of Labour, May 7, 1963.

5 Correspondence: Mr. J. C. Tonner, Secretary, N.B.L.R.B., October 22, 1963. According to Mr. Tonner: "the Board is very reluctant to carve out seasonal employees from any unit."

However, there is a case when the N.B.L.R.B. excluded casual employees from certification: On May 26, 1961, the Board certified the Bathurst & District Mine Mill & Smelter Workers Union, Local 1029, I.U. of M.M.S.W. (Canada), as: "the bargaining agent for all employees on hourly-rates in the crafts, departments and plants of the Wedge Mining Property of Consolidated Mining & Smelting Co. of Canada, Ltd., Bathurst, N.B. except persons employed in a confidential capacity, persons having authority to hire or to discharge employees, foremen, bosses, spare shift bosses, security guards, watchmen, chief cook, apprentices, casual employees and those excluded by the New Brunswick Labour Relations Act." Certificate 625.

The N.B.L.R.B. has never certified a unit of seasonal employees separately.

6 Letter of August 21, 1963, from Mr. C. R. McQuaid, Chairman, P.E.I.L.R.B., in which he states that the P.E.I.L.R.B. does not certify: "seasonal employees separately from full-time employees".

7 Interview: Mr. M. T. McKelvey, Registrar, M.L.B., May 14, 1963.

8 Dominion Stores Ltd. (Beloeil Store), and Union des Commis du Detail, Local 486, R.C.I.A., Montreal. Source: Q.L.R.B. File No. D-340, September 4th, 1962, *Bulletin Mensuel d'Information* (janvier-février 1963), p. 73.

9 *Decisions of the S.L.R.B.* (1945), p. 94.

10 *Decisions of the S.L.R.B.* (1945), p. 137.

11 The case of the Retail, Wholesale and Department Store Union, AFL-CIO/CLC, Applicant; and the Lloydminster & District Agricultural Co-Operative Association, Ltd., Respondent. Source: Reasons for Decisions, S.L.R.B., June 4, 1962.

12 The A.B.I.R. certified the applicant union as a bargaining agent for: "all of the employees of Adby Demolition Company Limited excluding employees performing office or related duties, employees of a temporary or casual nature, foremen whether temporary or permanent and excluding." Source: *Bulletin on the Activities of the A.B.I.R.* (October 1, 1962 to December 31, 1962), Certificate No. 189-62.

13 In the case of the Civic Employees Labour Union No. 30, N.U.P.E. Edmonton, Applicant; and Edmonton Exhibition Association Limited, Edmonton, Alberta; the A.B.I.R. certified the applicant union as a bargaining agent for: "labourers (casual, seasonal, permanent and skilled), truck drivers and all other employees" with some exceptions. Source: *Bulletin on the Activities of the A.B.I.R.* (January 1st. to December 31st., 1959), Certificate No. 132-59.

14 See Section 60, I.R.D.I. Act.

15 Interview: Mr. J. L. MacDougall, Secretary, C.L.R.B., July 4, 1963.

16 *Ibid.*

17 "Where a collective agreement is in force, the application may be made at any time after the expiry of ten months of the term of the collective agreement." Section 7(4) of the I.R.D.I. Act.

18 Interview: Mr. J. L. MacDougall, Secretary, C.L.R.B., July 4, 1963.

19 In the case of International Union of Mine, Mill and Smelter Workers, Applicant; and Can-Met Explorations Ltd., Respondent; and the United Steelworkers of America, Intervener; the C.L.R.B. excluded seasonal employees from the bargaining unit. In this case the appropriate unit reads as follows: "All employees of the Respondent at its mining site at Quirke Lake, Ontario, including samplers below the rank of head sampler and assayers below the rank of head assayer not on the staff of the Geological Department, and excluding shift bosses, foremen, persons above the rank of foreman, security guards, fire guards, night watchmen, employees hired for summer vacation period, stationary engineers, members of geological and engineering staffs, head assayer and office staff from the bargaining unit." Source: Ottawa, February 26th, 1958. C.L.R.B.

20 In the case of the National Harbours Board Elevator Group, Prescott, Ontario, and the Civil Service Association of Canada, the C.L.R.B. certified casual employees with regular employees. Source: *The Labour Gazette* (March 1959), p. 270.

21 In the case of the International Longshoremen's Association, a casual unit of longshoremen employed by the Hamilton Harbour's Commissioners was certified separately from regular employees by the C.L.R.B. Source: *The Labour Gazette* (September 1960), p. 914.

22 GOLDENBERG, H. C. *Report of the Royal Commission on Labour-Management Relations in the Ontario Construction Industry* (Ontario: March 1962).

23 By-law No. 1 (Q.L.R.B.), Section 28 (Manitoba Regulation 12/53, Rules of Procedure and Practice for the Administration of the Labour Relations Act), and Section I(a)(iv) (P.E.I.I.R.A.), have some restraining provisions concerning part-time employees.

24 Dominion Stores Limited (Beloeil Store), and Union des Commis du Detail, Local 486, R.C.I.A., Montreal. Source: Q.L.R.B., File No. D-340, September 4th, 1962. *Bulletin Mensuel d'Information* (janvier-février 1963), p. 73.

The case concerned a demand made on behalf of the Company to revise the Board's decision of November 2, 1961, which granted certification to the union as the bargaining agent for all regular full-time and regular part-time employees except store manager and persons automatically excluded by the Labour Relations Act.

25 Interview: Mr. Marchand, Registrar; Mr. Gagnon, Secretary; Q.L.R.B., June 28, 1963.

26 Interview: Mr. J. L. MacDougall, Secretary, C.L.R.B., July 4, 1963.

27 *Ibid.*

28 Illustrating the separate certification of all full-time employees by the A.B.I.R. is the case of the Retail Clerks International Association, Local No. 397, Calgary, Applicant; and Canada Safeway Ltd., Calgary; the A.B.I.R. certified the applicant union as the bargaining agent for: "all full-time employees employed in the Retail Stores owned and/or operated by Canada Safeway Ltd. in the City of Calgary and its adjacent suburbs." Source: A.B.I.R. Certification No. 133-56, December 3, 1956.

Illustrating the exclusion of employees working less than one-half the regular weekly hours from full-time employees by the A.B.I.R. is the case of the Beverage Dispensers International Union, Local 265, Calgary, Applicant; and Trade Winds Motor Hotel, Valleyfield Investments Ltd., Calgary; the A.B.I.R. certified the applicant union as a bargaining agent for: "all bartenders and waiters employed in the dispensing of beverages on the premises licensed by the Alberta Liquor Control Board and occupied by the Sinbad Lounge excluding those employed less than one-half the regular weekly hours and bar manager." Source: *Bulletin on the Activities of the A.B.I.R.* (October 1, 1962 to December 31, 1962), Certification No. 204-62.

Illustrating the exclusion of part-time employees from full-time employees by the S.L.R.B. is the case of the Saskatoon Printing Pressmen and Assistants' Union, No. 206, Applicant; and Western Publishers (Prince Albert) Limited, Prince Albert, Respondent (Certificate granted on May 1, 1963); the S.L.R.B. certified the applicant union as the bargaining agent for: "all journeymen and apprentice pressmen employed by Western Publishers (Prince Albert) Limited, under the name of The Daily Herald in the City of

Prince Albert, Saskatchewan, employed in the newspaper pressroom, commercial pressroom, stereotype department, and employees in the bindery department, except part-time employees in the bindery department."

29 The A.B.I.R. certified a bargaining unit of full-time and part-time employees in the case of the Retail Clerks International Association, Local 397, Calgary, Applicant; and the Dominion Stores Ltd., Calgary; and defined the bargaining unit as follows: "all employees, whether full or part-time, employed by Retail Stores operated by Dominion Stores Ltd., in the City of Calgary and its adjacent suburbs." A.B.I.R. Certificate No. 22-58, April 17, 1958.

The S.L.R.B. certified part-time employees with full-time employees in the case of the Saskatoon Typographical Union No. 663, Applicant; and Modern Press Limited, Regina, Saskatchewan, Respondent; and The Saskatchewan Wheat Pool Employees' Association, Respondent (Certification granted on July 8, 1960); and defined the bargaining unit as an agent for "all employees employed by Modern Press Limited at Saskatoon, Saskatchewan, in its mailing department, including part-time employees."

30 Interviews: Mr. K. Pugh, Chairman, A.B.I.R., May 21 1963; Mrs. I. Jones, Secretary, S.L.R.B., May 16, 1963.

31 Interview: Mr. K. Pugh, Chairman, A.B.I.R., May 21, 1963.

32 Correspondence: Mr. J. C. Tonner, Secretary, N.B.L.R.B., October 22, 1962.

33 *Ibid.*

34 On May 26, 1961, the N.B.L.R.B. certified the Retail, Wholesale and Department Store Union, Local 1065, as: "the bargaining agent for all employees of Jackson's Limited, Riverview, N.B., save and except store manager and those above the rank of store manager, employees who generally work less than 24 hours per week and students employed during the summer vacation period." Source: N.B.L.R.B. Certificate No. 620.

35 The Retail Store Employees Local Union No. 832, Retail Clerks International Association, Applicant; and the Dominion Stores Limited, Employer. Source: The M.L.B. Certificate No. 709.

36 Illustrating the practice of the O.L.R.B. in excluding part-time employees from units of full-time employees is the case of an application for certification by Retail Clerks International Association for the employees of Irvine & Francis Ltd.; the Board ruled that the appropriate unit should consist of: "all employees of the Respondent at its stores in Smiths Falls, save and except store or grocery managers, produce managers, meat managers and persons above the ranks of store or grocery manager, produce manager, meat manager, office staff, and it should also exclude persons employed for not more than 24 hours per week, and students hired for the school vacation period." Source: O.L.R.B., File No. 1026-61-R.

37 Illustrating the practice of the O.L.R.B. in certifying part-time employees in a unit separate from full-time employees was the certification of the Retail Clerks International Association as a bargaining agent for: "all employees of the 'Shop Easy Stores Ltd. at Kenora' regularly employed for not more than 24 hours per week and students employed during the school vacation period." (10 employees in the unit.) Source: O.L.R.B., File No. 2254-61-R.

38 An example of separate certification of part-time employees by the N.S.L.R.B. is the case of the Canadian Brotherhood of Railway, Transport and General Workers, Local No. 280, 47 LeMarchant Street, Halifax, N.S., Applicant; and Kings' County Municipal School Board, Kentville, N.S., Respondent; (Certificate Order No. 690, August 10, 1961). In this particular case the N.S.L.R.B. certified the applicant union as: "the bargaining agent for a bargaining unit consisting of all part-time bus drivers employed at the Central Kings Rural High School."

39 Interview: Mr. Byron D. Anthony, Director of Labour Relations, Nova Scotia Department of Labour, May 7, 1963.

40 An example of a bargaining unit certified by the N.S.L.R.B. that included only full-time employees and excluded part-time employees is the certifiication of the Canadian Brotherhood of Railway, Transport and General Workers, Local No. 280, Stellarton: "as the

bargaining agent for a bargaining unit consisting of full-time bus drivers and janitors at the Central Kings Rural High School."

41 An example of a certified bargaining unit certified by the N.S.L.R.B. that was composed of full-time and part-time employees is the case of the Pictou County School Board Employees Union, No. 867, N.U.P.E., R.R. No. 1, New Glasgow, Applicant; and Pictou County Municipal School Board, Pictou, Respondent. The applicant union was certified as: "the bargaining agent for a bargaining unit consisting of all employees of the Respondent employed at the East Pictou Rural High School and West Pictou Rural High School engaged in the operation and maintenance of building facilities and transportation facilities including janitors and bus drivers, but excluding foremen and above that rank, office employees and those excluded by Clause (i) of Paragraph (j) of Section 1 of the Trade Union Act." (Certificate Order No. 770, February 27, 1963.)

Although not stated in the certification order, this bargaining unit included part-time as well as full-time employees. Mr. Byron D. Anthony, Nova Scotia Director of Labour Relations, mentioned this in an interview with the writer.

42 Source of these ideas: Section 28 of the Manitoba Regulation 12/53, Rules of Procedure and Practice for the Administration of the Labour Relations Act.

## Part II, Chapter 4

1 WOODS, H. D. and S. OSTRY. *Labour Policy . . .*, p. 110.

2 *Ibid.*

3 Brief to the Q.L.R.B. by the Quebec Builders Exchange.

4 DUNLOP, John T., "Labour-Management Relations" in KELLY, Burnham, Ed. *Design and Production of Homes* (New York: McGraw-Hill, 1959), p. 259.

5 Paper delivered by W. H. Sands, Deputy Minister of Labour, B.C., and Chairman, B.C.L.R.B., to the Industrial Contractors Association of Canada, Victoria, B.C., February 28, 1961.

6 *Ibid.*

7 Interview: Mr. D. W. Coton, Registrar, B.C.L.R.B., May 28, 1963.

8 The position of the B.C.L.R.B. with respect to jurisdictional conflict was well expressed by Sands, who stated that it is his "firm conviction that it is not the function of a Labour Relations Board to intervene in jurisdictional disputes, whether they be between unions in the construction industry, or in any other industry. There is a machinery within the labour movement for the determination of such disputes, and if a Labour Relations Board is to retain its proper position in the present scheme of things, it would be well advised to refrain from interference in such matters. It has been the policy of the B.C.L.R.B. to steer clear of such matters, if at all possible." Source: Paper by W. H. Sands, *op. cit.*

9 Interview: Mr. D. W. Coton, Registrar, B.C.L.R.B., May 28, 1963.

10 For the letter and master list, see Appendix AK.

11 Interview: Mr. D. W. Coton, Registrar, B.C.L.R.B., May 28, 1963.

12 An example of an early project certification is the certificate issued to the United Brotherhood of Carpenters and Joiners of America, Local No. 1882, AFL, for the employees of B.C. Bridge and Dredging Company Ltd. employed as carpenters on the construction project at Duncan Bay, B.C.

13 Paper: W. H. Sands, *op. cit.*.

14 *Ibid.*

15 *Ibid.*

16 Bulletin B.C.L.R.B., October 21-27, 1957, p. 3..

17 For instance, until 1962 there were 27 carpenter Locals in B.C. but, in 1962, two additional Locals were formed and the Carpenters Union now has 29 Locals. "The parent body has divided the province into twenty-seven geographical areas, each of which constitutes the

territorial jurisdiction of one of the Locals. The International Hod Carriers, Building and Common Laborers' Union has also divided the province into geographical areas denoting the jurisdiction of each of its member Locals. In certain instances, where there is only one Local of a construction union within the province, that Local has assumed jurisdiction to represent members of its craft throughout all of the province. Then again, certain internationals have a very large Local in Vancouver which assumes jurisdiction over all of the province except for the localities in which there are other Locals of the same international." Source: Paper by W. H. Sands, *op. cit.*

18 Paper: W. H. Sands, *op. cit.*

19 An example of such an area bargaining unit is the certification order issued by the B.C.L.R.B. to the United Brotherhood of Carpenters and Joiners of America, Local No. 1540, as to employees of Columbia Engineering Co. Ltd., Vancouver, B.C. employed as carpenters "in that territory described as commencing at a point 51′ 30″ North, Latitude 122′ West Longitude; thence due East to 51′ 3″ North, 121′ West; thence Northeast to 52′ North, 120′ West; thence due North to 53′ North, 120′ West; thence due East to 53′ North, 119′ West; thence due South to 52′ North, 119′ West; thence Southwest to 50′ North, 120′ West; thence due West to 50′ North, 121′ West; thence Northwest to 51′ North, 122′ West; thence due North to point of commencement." (Bulletin B.C.L.R.B., August 1, 1953, p. 3.)

20 Certification order issued by the B.C.L.R.B. to the United Brotherhood of Carpenters and Joiners of America, Locals Nos. 452, 1251, 1843 and 2213, as the bargaining agent for the employees of Alexander Browning Ltd., 1616 Pemberton Avenue, North Vancouver, B.C., "employed as carpenters in the jurisdiction of the four Locals." (Certificate granted April 23, 1954.)

21 A joint certification order issued by the B.C.L.R.B. to the United Brotherhood of Carpenters and Joiners of America, Locals 452, 513, 527, 872, 2736, 1237, 1251, 1346, 1370, 1540, 1598, 1638, 1696, 1619, 1735, 1812, 3275, 1843, 1882, 1998, 2068, 2213, 2412, 2458, 2493, 3214, 1081, 2300, and 2318, as to the employees of Poole Construction Company Ltd., Box 650, Revelstoke, for a unit of "those employed as carpenters, joiners and carpenter millwrights in British Columbia." (Bulletin B.C.L.R.B., November 17, 1961, p. 5.)

22 In most instances the B.C.L.R.B. issues province-wide certificates, and it certifies jointly the four labourer Locals, the three painter Locals, or the 29 carpenter Locals. It should be noted that until 1962 there were only 27 carpenter Locals in British Columbia. In the year 1962 two additional Locals were formed, and presently the Carpenter Union has 29 Locals in B.C.

23 Paper by W. H. Sands, *op. cit.*

24 Paper by W. H. Sands, *op. cit.*

25 *Ibid.*, pp. 5 & 6.

26 *Ibid.*, pp. 8 & 9.

27 Poole Construction, crane operators certified on October 3, 1958.

28 *The Labour Gazette* (January 1962), p. 50.

29 *Ibid.*, December 1962, p. 1387.

30 Interview: Mr. Gagnon, Secretary, Q.I.R.B., June 28, 1963.

31 *Juridical Extension and the Building Trades in Quebec.* Paper delivered by Father Gerard Hébert, S.J., to the Industrial Relations Research Association, Spring, 1963.

32 *Ibid.*

33 *Ibid.*

34 The case of the Association Canadienne des Ouvriers des Métiers de la Construction, Local No. 1 Inc., Valleyfield, P.Q., Applicant, and the Foundation Company of Canada Ltd., Montreal, Respondent, re: Usine Canadian Schenley Plant, Valleyfield. The applicant union was certified as a bargaining agent for all construction tradesmen of the company employed on the construction of a plant of Canadian Schenley at Valleyfield. (Q.L.R.B. Certificate issued on June 27, 1946.)

35 The case of the Syndicat National de la Construction Sept-Iles, Sept Iles, Co. Duplessis, P.Q., Applicant, and Pentagon Construction Co. Ltd., Montreal, Respondent. The applicant

union was certified as a bargaining agent for all employees of Pentagon Construction Co. Ltd., except managers, superintendent and all persons excluded by Q.L.R.A. This certification covered all employees within the territorial jurisdiction of Construction Decree No. 2218 issued under the Collective Agreement Act. (Q.L.R.B. Certificate issued on October 31, 1962.)

36 The International Brotherhood of Electrical Workers, Local 568 (AFL-CIO, CLC), Montreal, Applicant, was certified as the bargaining agent for "all electricians-journeymen, apprentice-electricians. welders, linemen and cable-splicers, regularly holding an employment connected with the normal professional occupations of the employer notwithstanding the actual number of jobs or projects to fulfill, except persons automatically excluded by Section 2, paragraph (a), sub-paragraphs 1, 2 and 3 of the Act" employed by Canadian Comstock Company Ltd., Dorval, P.Q. (Q.L.R.B. Certificate issued on October 6, 1959.)

37 The case of the Syndicat National des Ouvriers de la Construction de Gaspé Nord, Applicant, and Construction St-Hilaire Limitée, Rimouski, Respondent, is an example. The applicant union was certified for "all wage earners within the meaning of the Labour Relations Act." Q.L.R.B. File No. 7635. *Bulletin Mensuel d'Information* (October 1961), p. 40.

38 Interview: Mr. Gagnon, Secretary, Q.L.R.B., June 28, 1963.

39 Interview: Judge Gold, Vice-President, Q.L.R.B., June 27, 1963..

40 Interview: Mr. M. T. McKelvey, Registrar, M.L.B., May 14, 1963.

41 *Ibid.*

42 The Hoisting and Portable Local 901 of the International Union of Operating Engineers were certified by the M.L.B. as the bargaining agent for a craft union consisting of "all the employees of Pearson Construction Company Limited working on the construction of the Manitoba Hydro Electric Board project at East Selkirk, Manitoba, as stationary engineers, operators of draglines, bulldozers, tractors for tractor drawn equipment, hoist, trucks, compressors and/or other equipment requiring similar skills; and mechanics engaged in servicing such equipment." (M.L.B. Certificate No. 717, November 13, 1958.)

43 The International Union of Operating Engineers Local 901, Building Material Drivers, Warehousemen and Helpers Local 343, and Building and Common Labourers Local 101, were jointly certified by the M.L.B. as the bargaining agent for "all employees of Grand Rapids, except technical, professional survey staff, first aid attendants, office and clerical staff, and those excluded by the Act." (M.L.B. Certificate No. 835, August 3, 1961.)

44 Interview: Mr. M. T. McKelvey, Registrar, M.L.B., May 14, 1963.

45 The M.L.B. certified the International Union of Operating Engineers Local 901, and The International Association of Bridge, Structural and Ornamental Iron Workers Local 728, as the bargaining agent for "all the employees of R. Litz & Sons Company Ltd., working within and out of Winnipeg, Manitoba, except office staff and those excluded by the Act." (M.L.B. Certificate No. MLB 800, September 22, 1960.)

46 The Manitoba Wartime Labour Relations Board certified the International Brotherhood of Electrical Workers, Local 435, Winnipeg, Applicant, as the bargaining agent for "the employees of Kunmen-Shipman Electric Ltd., described as journeymen, electricians, apprentices and helpers, excepting those excluded by Section 2(1) of P.C. 1003." (The Manitoba Wartime Labour Relations Board, Certificate No. 377, June 20, 1946.)

47 The M.L.B. certified the Sheet Metal Workers' International Association, Local 536, AFL, as the bargaining agent for "all the employees of The MacDonald Bros. Sheet Metal & Roofing Company Ltd., except general office staff, sales staff, engineering staff and journeymen sheet metal workers." (M.L.B. Certificate No. 399, July 3, 1952.)

48 Presently a special committee composed of academicians, and labour and management representatives, of the Manitoba construction industry, is studying the bargaining structure in the industry, and they might come up with some answers with respect to the appropriateness of bargaining units.

49 H. Carl Goldenberg, O.B.E., Q.C., Commissioner, March 1962.

50 Interview: Mr. Reed, Alternate Chairman, O.L.R.B., May 9, 1963.

51 H. Carl Goldenberg, O.B.E., Q.C., Commissioner, March 1962, pp. 28-29.

52 The case of the International Hod Carriers' Building and Common Laborers Union of America, Local 527, AFL-CIO/CLC, Applicant, v. Ottawa Tile and Marble Ltd., Respondent; the Board certified the union as bargaining agent for "all employees of the Respondent employed at and working out of Ottawa, save and except foremen, persons above the rank of foreman, and office staff." (O.L.R.B. File No. 19 495-95, Monthly Report, May 1960.)

53 The case of The Bricklayers' and Masons' Union Local No. 1, Ontario, of the Bricklayers', Masons and Plasterers' International Union of America, Applicant, v. Joseph Gollob, Respondent; the union was certified by the O.L.R.B. as the bargaining agent for "all bricklayers, bricklayer apprentices, stone masons and stone mason apprentices in the employ of the Respondent in the County of Wentworth, except the Township of Beverly; the County of Halton, except that portion East of Sixteen Mile Creek from the Lakeshore to the Queen Elizabeth Highway and that portion East of the Sixth Line North from the Queen Elizabeth Highway; Townships of North and South Grimsby and Caistor in County of Lincoln; and the County of Haldimand except Townships of Moulton and Dunn, save and except non-working foremen and persons above the rank of non-working foreman." (O.L.R.B. File No. 19 670-60, Monthly Report, May, 1960.)

54 The United Brotherhood of Carpenters and Joiners of America, Local 2486, Applicant, was certified as a bargaining agent for "all carpenters and carpenters' apprentices in the employ of Thadde C. Taillefer Co. in the City of Sudbury and within a radius of thirty-five miles from the City of Sudbury Federal Building, save and except non-working foremen and persons above the rank of non-ranking foremen." (7 employees in the unit.) (O.L.R.B. File No. 20-235-60 Monthly Report, August 1960.)

55 In the case of Hydro-Electric Power Commission, the applicant union applied for certification as bargaining agent in each of several proposed units of employees in line construction camps of the Respondent. The Board rejected the application stating that "in view of the highly integrated and dependent character of the line camp operations, and the very great practical difficulties in the way of administering a collective bargaining relationship confined to one of these line camps whose existence is transitory and whose employee-makeup is in a continuous state of flux because of the demands of the respondent's operations elsewhere . . . the units applied for are inappropriate." The Board expressed the opinion "that all of the persons employed in line camps of the respondent's Construction Division . . . constitute a unit appropriate for collective bargaining." The Board also stated that an examination of the records of the Applicant and the Respondent revealed that the union did not have sufficient support in the broader bargaining unit. In view of this the Board dismissed the application.

56 The case of the International Hod Carriers' Building and Common Laborers' Union of America, Local 493, Applicant, v. Anglin-Norcross Ontario Ltd.; the O.L.R.B. certified the applicant union as a bargaining agent for "all construction labourers in the employ of the Respondent at its Bell Telephone Exchange Building project at North Bay, save and except non-working foremen and persons above the rank of non-working foreman." (O.L.R.B. File No. 20, 216-60, Monthly Report, August 1960.)

57 This legislation was the result of the Royal Commission on Labour-Management Relations in the Ontario Construction Industry. (Commissioner H. Carl Goldenberg, O.B.E., Q.C., March 1962).

58 Interview: Mr. K. A. Pugh, Alberta Deputy Minister of Labour, Chairman, Alberta Board of Industrial Relations, May 21, 1963.

59 The certification of bargaining units on the basis of the jurisdiction of a particular construction Local, rather than on the basis of coverage of labour agreements, in some instances results in broader coverage of the certification order than that of the collective agreement. For example, the collective agreement between the Edmonton construction unions and the Edmonton Builders' Exchange covers an area with a 30-mile radius from the City of Edmonton. The jurisdiction of some Locals might be more extensive than that but, in practice, this does not create too many problems; most Edmonton collective agreements have a provision that, in the case of a project by any Edmonton firm beyond the 30-mile radius, employees of the Local (with which the firm signed the Edmonton agreement) would be engaged, and they would be subject to conditions similar to those

for employees within the 30-mile radius. Interview: Mr. K. A. Pugh, Alberta Deputy Minister of Labour, Chairman, A.B.I.R., May 21, 1963.

60 In the case of the United Brotherhood of Carpenters and Joiners of America, Local Union No. 1569, Medicine Hat, Alberta, Applicant, and Walden Construction Ltd., Calgary, Alberta, the A.B.I.R. certified the applicant union as the bargaining agent for a unit of "carpenters, carpenter foremen and carpenter apprentices." Interview: Mr. K. A. Pugh, May 21, 1963.

61 Interview: Mrs. I. Jones, Secretary, S.L.R.B., May 16, 1963.

62 *Ibid.*

63 The S.L.R.B. certified the International Association of Heat & Frost Insulators & Asbestos Workers, Local No. 119, as a bargaining agent for "all heat and frost insulators and asbestos workers employed by the Utah Company of the Americas on the Company's project near Yarbo, Saskatchewan." (Certificate granted June 10, 1959.)

64 The S.L.R.B. certified the International Association of Bridge Structural and Ornamental Iron Workers, Local No. 771, as bargaining agent for "all employees of Dominion Structural Steel Limited employed in the Province of Saskatchewan, engaged in the fabrication and erection of all buildings and reinforcing and ornamental iron including iron workers, riggers, machinery movers and welders and all reinforcing iron workers, and all helpers or apprentices to same including all foremen, except any persons having and regularly exercising authority to employ or discharge employees or regularly acting on behalf of management in a confidential capacity." (Certificate granted January 12, 1960.)

65 The S.L.R.B. certified the Construction and General Laborers' Local Union No. 180, chartered by the International Hod Carriers' Building and Common Laborers' Union of America, as the bargaining agent for "all labourers, mixermen, fork lift operators, machine operators, frontend loaders and truck drivers employed by Cindercrete Products Limited, in the City of Regina, Saskatchewan, except foremen and persons employed in a confidential capacity." (Certificate granted November 18, 1959.)

66 The S.L.R.B. certified the United Brotherhood of Carpenters and Joiners of America, Local 1805, as the bargaining agent for "all carpenters, carpenters' apprentices, and carpenter foremen employed by Perini (Western) Limited, in the City of Saskatoon, Saskatchewan, and to the boundaries of the next local union, except superintendent or superintendents." (Certificate granted May 1, 1963.)

67 The S.L.R.B. certified the Construction and General Laborers' Local Union No. 180, chartered by the International Hod Carriers', Building and Common Laborers' Union of America, as the bargaining agent for "all labourers, labour foremen, cement finishers, hoist operators, power buggy operators, jackhammer operators, mortar mixers (machine operators), employed by Larwill Construction Company, between the 49th parallel and the 51st parallel in the Province of Saskatchewan." (Certificate granted May 1, 1963.)

68 The S.L.R.B. certified the United Brotherhood of Carpenters and Joiners of America, Local 1867, as a bargaining agent for "all carpenters, carpenters' foremen, and carpenter apprentices employed by Larwill Construction Company in the City of Regina, Saskatchewan, and within a 25-mile radius of the boundaries of the said City of Regina." (Certificate granted May 1, 1963.)

69 Interview: Mr. Byron D. Anthony, Director of Labour Relations, Nova Scotia Department of Labour, May 7, 1963.

70 *Ibid.*

71 The N.S.L.R.B. certified the International Union of Operating Engineers, Local No. 721, Bedford, Halifax County, N.S.. as the bargaining agent for a unit of "all shovel operators; hoist operators; crane operators; winch operators; wagon drill operators; bulldozer operators; (pumps four inches and over, compressors), mechanics; and mechanics' helpers; employed by Cape-Tidewater at the Nova Scotia Pulp Mill Project; but excluding foremen and above that rank; office employees; and those excluded by Clause (i) of Paragraph (j) of Section 1 of the Trade Union Act." (Certificate No. 625, May 10, 1960.)

72 The N.S.L.R.B. certified the International Union of Operating Engineers, Local No. 721, Halifax, N.S., as "the bargaining agent for bargaining unit consisting of all employees of Cameron Contracting Limited, Halifax, in the Province of Nova Scotia." (Certificate No. 437, September 25, 1956.)

73 The N.S.L.R.B. certified the International Union of Operating Engineers, Local No. 721, Bedford, Halifax County, Nova Scotia, as "the bargaining agent for a bargaining unit consisting of all employees of the Standard Paving Maritime Limited, Halifax, N.S., in the Halifax-Dartmouth Metropolitan Area, engaged directly in the maintenance or operation of shovels, cranes, pile drivers, tractors, compressors, pumps (4 inch and over), machine drills (excepting hand held drills), paving machines, rollers, graders, dumptors and firemen, but excluding foremen and above that rank office employees and those excluded by Clause (i) of Paragraph (j) of Section 1 of the Trade Union Act." (Certificate No. 733, May 7, 1962.)

74 The N.B.L.R.B. certified the United Brotherhood of Carpenters and Joiners of America, Local Union 1893 as "the bargaining agent for all carpenters employed by Richard & B. A. Ryan Limited, Lancaster, N.B., to do carpenter work in a 15-mile radius from the Fredericton Post Office." (Certificate No. 655, November 24, 1961.)

75 Correspondence with Mr. J. C. Tonner, Secretary, New Brunswick Labour Relations Board, October 27, 1961.

76 Correspondence with Mr. C. R. McQuaid, Chairman, P.E.I.L.R.B., August 21, 1963.

## Part II, Chapter 5

1 BAMBRICK, J. J. and H. ZAGAT, "Multi-Unit Bargaining – Good or Bad?" *Management Record* (December 1952), p. 457.

2 *Ibid.*, p. 460

3 *Ibid.*

4 *Ibid.*

5 *Ibid.*

6 See N.L.R.B. v. C. A. Lund Co., 103 F. (2d) 815 (C.C.A. 8th., 1939), affecting C. A. Lund Co., 6 N.L.R.B. 423, 1938, where the Court states: "If Lund may deal with the employees of the two plants as separate units it is believed that collective bargaining would be a farce and that Lund, because of his hostility to the Union, would evade the purpose and intent of the law by transferring business from one plant to the other as his interest dictated according to the unit with which he could force competition between the two groups of his employees to their detriment and his gain."

7 WOODS, H. D. and S. OSTRY. *Labour Policy . . .*, p. 501.

8 ZORN, Burton A., "Multi-Plant and Multi-Employer Bargaining". *New York University, Sixth Annual Conference on Labor* (New York: Mathew Bender, 1953).

9 E.g.: Spencer Shoe Corp., 61 N.L.R.B. 1058, 1945; Pine Hall Brick & Pipe Co., 93 N.L.R.B. 362, 1951.

10 E.g.: Murray Corp. of America, 45 N.L.R.B. 854, 1942; United Shipyards, Inc., 5 N.L.R.B. 742, 1938.

11 E.g.: Geneva Forge Inc., 76 N.L.R.B. 497, 1948; Malden Electric Co., 96 N.L.R.B. (No. 72), 1951.

12 See Atlantic Refining Co., 1 N.L.R.B. 359, 1936.

13 Compare, e.g., Inland Empire District Council v. Millis, 325 US 697, 1945 (geographical separation of three plants of 100 miles did not preclude the establishment of one unit), with Roanoke Mills Co., 76 N.L.R.B. 195, 1948 (plants only one mile apart, but separate units established).

14 These industries, as indicated in Appendices I, J, and K, account for most of the certification orders issued by the C.L.R.B.

15 The union's application is one of the main reasons for a single-location certification; up to the present, not one union has applied for a multi-location certification in any of these industries. Interview: Mr. J. L. MacDougall, Secretary, C.L.R.B.

16 For a detailed discussion of C.L.R.B. view on certification of Banks, see WOODS, H. D. and S. OSTRY. *Labour Policy . . .*, p. 146.

17 The case concerned an application made by the Canadian Brotherhood of Railway Employees (now the Canadian Brotherhood of Railway, Transport and General Workers) for certification of the ticket clerks of the Canadian Pacific Railway at Toronto.

18 The International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Applicant, and Canadian Pacific Railway Co., Respondent. (C.L.R.B., August 23, 1960.)

19 Interview: Mr. J. L. MacDougall, Secretary, C.L.R.B., September 23, 1960.

20 The C.L.R.B. granted a certificate to the "Canadian Brotherhood of Railway, Transport and General Workers and the Canadian Merchant Service Guild, Inc. (Eastern Branch), joint Applicants, on behalf of a unit of dock officers and marine engineers employed by Northumberland Ferries Ltd. aboard the SS. Charles A. Dunning and MV. Lord Selkirk in its ferry service between Wood Island, P.E.I., and Caribou, N.S." *The Labour Gazette* (October 1962), p. 1147.

21 An illustration of this is the case of the Canadian Brotherhood of Railway, Transport and General Workers who were certified on behalf of a unit of marine engineers employed aboard tugs operated by Straits Towing Ltd., Vancouver.

22 *The Labour Gazette* (August 1962), p. 949.

23 The International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Applicant, and Carwil Transport Ltd., Respondent. C.L.R.B., Ottawa, June 14, 1950.

24 DLS 7-563, April 10, 1945.

25 *The Labour Gazette* (September 1962), p. 1031.

26 *Ibid.*, February 1960, p. 168.

27 *Ibid.*, July 1961, p. 672.

28 *Ibid.*, May 1960, p. 465.

29 Interview with the Executive Officer of C.L.R.B., Mr. Bernard Wilson, June 4, 1963.

30 Certified May 22, 1952.

31 Certified May 14, 1953.

32 Certified August 5, 1952.

33 Certified June 23, 1953.

34 D.L.S. 7-617, March 5, 1946.

35 C.B.C. Building Service Employees (including janitors) at Montreal; certified on November 10, 1955. C.B.C. Building Service Employees (including janitors) at Toronto; certified on May 7, 1958.

36 Interviews: Judge Gold, Vice-President, Q.L.R.B., October 11, 1963; Mr. E. Etchen, Research Director, O.L.R.B., May 9, 1963.

37 In the case of United Steelworkers of America, Lachine, P.Q., Applicant, and Dominion Bridge Company Ltd. (Lachine & Longue Pointe Plants), Lachine, P.Q., Respondent, the Q.L.R.B. certified the applicant unit as a bargaining agent for "all employees of the Dominion Bridge Company Ltd., at Lachine & Longue Pointe Plants." (Q.L.R.B., April 28, 1949.)

Another example of a multi-location certification order is the case of the Union des Commis du Détail, Local 486, R.C.I.A., Montreal, Applicant, and Dominion Stores Ltd. (two of the company stores at 420 des Forges and 988 St-Maurice, Trois-Rivières, P.Q.), Respondent. The applicant union was certified as a bargaining agent "for all Dominion Stores Limited employees at 420 des Forges St. store and 988 St-Maurice St. store, Trois-Rivières." (Q.L.R.B., April 17, 1962.)

38 Interview: Mr. R. Marchand, Registrar and Mr. Gagnon, Secretary, Q.L.R.B., June 27, 1963.

39 Interview: Mr. E. Etchen, Research Director, Ontario Labour Relations Board, May 9, 1963.

40 An example of a multi-location certification concerning all the terminals of trucking company in Quebec is the case of the Transport Drivers, Warehousemen and Helpers'

Union, Local 106, Montreal, applicant union, and the H. Smith Transport Ltd., Dorval, Que. The applicant union was certified by the Q.L.R.B. as the bargaining agent for "drivers, warehousemen, checkers, dockmen, tow-motor operators and helpers in all H. Smith Transport terminals in the Province of Quebec, except persons automatically excluded by the Labour Relations Law." (Q.L.R.B. Certificate issued June 10, 1959.)

41 Interview: J. Finkelman, Chairman, O.L.R.B., May 9, 1963.

42 On November 20, 1956, the O.L.R.B. certified the Retail, Wholesale and Department Store Union, AFL-CIO/CLC, as a bargaining agent for "all employees of the Agnew Surpass Shoe Stores Limited at its retail stores in Windsor, save and except manager, persons above the rank of manager, persons regularly employed for not more than 24 hours per week, and students hired for the school vacation periods."

The company had five stores at Windsor which were located at the following addresses: 1356 Ottawa Street; 357 Ouellette Avenue; 1528 Wyandotte Street East; Berwin Shopping Centre; 2451 Dougall Road.

43 Interview: Mr. D. W. Coton, Registrar, B.C.L.R.B., May 28, 1963.

44 To illustrate this point, on July 14, 1959, the B.C.L.R.B. rejected an application for certification by the United Steelworkers of America, Local Nos. 5115 and 2655, who applied to be certified for all employees of Aluminum Company of Canada in B.C., "except office staff, clerical, technical and professional personnel and members of the company police force." The reason for the rejection of the application was the inappropriateness of the proposed bargaining unit that would have covered the Kitimat Smelter, which is considered primary industry, and the Vancouver fabricating plant, which is considered secondary industry. Interview: Mr. D. W. Coton, Registrar, B.C.L.R.B., May 28, 1963.

45 Certificate granted on May 20, 1944.

46 On April 21, 1952, the Retail Food and Drug Clerks Union, Local No. 1518, was certified as a bargaining agent for the employees of Malkin Ltd., "in the stores in the cities of Vancouver, North Vancouver, New Westminster and Victoria, and in the municipalities of North Vancouver, West Vancouver, Burnaby, Richmond, Oak Bay, Esquimalt, Saanich, and in the University Endowment Lands, and in such unincorporated territory as is included within the above described area."

47 On November 25, 1958, The White Spot Employees' Union was certified as the bargaining agent for the employees of White Spot Ltd., "employed at 1126 S.E. Marine Drive, and 8216 Granville Street, Vancouver, B.C., except office employees."

48 On April 14, 1959, the Trail and District Smelter Workers Union, Local 480 and Kimberley Mine and Mill Workers Union, Local No. 651, I.U.M.M. & S.W. (Canada), were certified to represent the employees of Consolidated Mining & Smelting Company of Canada Ltd., Trail, B.C., "employed on hourly rates at Trail and District and Kimberley and District."

49 On January 31, 1952, the B.C.L.R.B. certified the Okanagan Valley School Employees Federal Union, No. 323, as a bargaining agent for employees of School District No. 20 (Salmon Arm), P.O. Drawer 140, Salmon Arm, B.C., "employed at Salmon Arm, Falkland, Celista and Blind Bay, B.C."

50 On September 19, 1957, the Building Material, Construction and Fuel Truck Drivers' Union, Local No. 213, was certified as a bargaining agent for those "employed as truck drivers, warehousemen and mechanics in British Columbia."

51 The following cases illustrate some multi-plant certifications by the M.L.B.:

In the case of Pembina Mountain Clays Ltd., the M.L.B. ruled that the appropriate bargaining unit was to include all plant employees engaged in the processing operation at Winnipeg and at Mordon. Source: The Oil Chemical and Atomic Workers International Union, CIO, Winnipeg, Local 16-629; M.L.B. Certificate No. 582, November 7, 1955.

Another example of a multi-plant certification by the M.L.B. is the case of D. Ackland and Son Ltd., Winnipeg, Manitoba, Employer, and the Retail, Wholesale & Department Store Employees' Union, Local 468, Winnipeg, Manitoba, Applicant; the M.L.B. certified the applicant union as bargaining agent for "a bargaining unit composed of all the employees of D. Ackland & Son Ltd., except office staff" (employees at both the Higgins Avenue and Fort Street establishments). Source: M.L.B. Certificate No. 238, August 2, 1950.

52 Interview: Mr. M. T. McKelvey, Registrar, M.L.B., May 14, 1963.

53 See Appendix V.

54 Interview: Mr. M. T. McKelvey, Registrar, M.L.B., May 14, 1963

55 Interview: Mr. M. T. McKelvey, Registrar, M.L.B., May 14, 1963.

56 M.L.B. Certificate No. 666.

57 M.L.B. Certificate No. 649, April 5, 1957.

58 Interview: Mr. M. T. McKelvey, Registrar, M.L.B., May 14, 1963.

59 M.L.B. Certificate No. 709, October 9, 1958.

60 Interview: Mr. K. A. Pugh, Alberta Deputy Minister of Labour, Chairman, A.B.I.R., May 21, 1963.

61 In the case of United Glass and Ceramic Workers of North America, Medicine Hat Ceramic Local 205, and Hycroft China Ltd., Medicine Hat, Alberta, the A.B.I.R. certified the applicant union as a bargaining agent for "all employees employed by the Hycroft China Ltd. Plant 1 and Plant 2, excepting those in a confidential or supervisory capacity and office staff." *Bulletin on the Activities of the A.B.I.R.* (January 1, to December 31, 1957), Certificate No. 6-57.

62 In the case of The Amalgamated Meat Cutters and Butcher Workmen of North America, Local No. 373, Calgary, Alberta, and the Alberta Processing Co. — A division of Gordon Young (B.C.) Ltd. — Calgary, Alberta, the A.B.I.R. certified the applicant union as the bargaining agent for "all employees employed by the employer in the plant and/or plants owned and/or operated by the employer including truck drivers in the City of Calgary and its adjacent suburbs." *Bulletin on the Activities of the A.B.I.R.* (January 1, to March 31, 1963), Certificate No. 17-63.

63 *Bulletin on the Activities of the A.B.I.R.* (January 1 to December 31, 1958), Certificate No. 25-58.

64 On February 2, 1959, the A.B.I.R. certified the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, Local No. 392, Calgary, as a bargaining agent for a unit of "all hourly paid employees of the Calgary Steel Tank Limited." *Bulletin on the Activities of the A.B.I.R.* (January 1, to December 31, 1959), Certificate No. 8-59.

65 *Bulletin of the Activities of the A.B.I.R.* (January 1 to December 31, 1959), Certificate No. 46-59.

66 An example is the case of the Retail Clerks Union, Local 401, Edmonton, Alberta, Applicant, and Macleod's Ltd., Red Deer, Alberta; the A.B.I.R. certified the applicant union as a bargaining agent for "all employees employed in the stores owned and/or operated by the employer within the corporate boundaries of the City of Red Deer, Alberta, except store manager, confidential secretary, and those employed exclusively in the office." *Bulletin on the Activities of the A.B.I.R.* (January 1, 1963 to March 31, 1963), Certificate No. 6-63.

67 Interview: Mrs. I. Jones, Secretary, S.L.R.B., May 16, 1963.

68 On October 16, 1958, the S.L.R.B. certified the Dairy Employees, Truck Drivers and Warehousemen Union No. 834, chartered by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, as the bargaining agent for "all employees employed by Canadian Propane (Sask.) Limited in its places of business located at Moose Jaw, Regina, Saskatoon, Swift Current, Prince Albert, Estevan and Assiniboia, Saskatchewan, except the Managers, Office Staff and Salesmen."

69 On May 31, 1963, the S.L.R.B. certified the Retail Clerks International Union as the bargaining agent for "all employees employed by Loblaw Groceteries Company Ltd. in the Cities of Moose Jaw, Saskatoon and Regina, in the Province of Saskatchewan."

70 Interview: Mr. Byron D. Anthony, Director of Labour Relations, N.S. Department of Labour, May 7, 1963.

71 Correspondence with Mr. J. C. Tonner, Secretary, N.B.L.R.B., October 23, 1963.

72 Correspondence with Mr. C. R. McQuaid, Chairman, P.E.I.L.R.B., August 21, 1963.

73 Interview: Mr. Byron D. Anthony, Director of Labour Relations, N.S. Department of Labour, October 23, 1963.

74 Certificate No. 566, January 29, 1960.

75 Correspondence: Mr. J. C. Tonner, Secretary, N.B.L.R.B., October 23, 1963.

76 *Ibid.*
77 See Appendix R.
78 See Appendix O.
79 See Appendix Q.
80 The totals refer only to employees covered by collective agreements for 500 or more employees, excluding those in the construction industry, as there are no data available for construction employees or units of less than 500 employees.
81 *The Labour Gazette* (January 1961), p. 111.
82 See Appendix L.
83 Interview: Mr. C. C. Bolden, Manager, Employee Relations, Dominion Bridge Company, June 12, 1963.

**Part II, Chapter 6**

1 Section 9(3).
2 Section 10(2).
3 Section 9(3).
4 Section 9(3).
5 Section 8(3).
6 Section 9(3).
7 Interview: Mr. M. T. McKelvey, Registrar, M.L.B., May 14, 1963.
8 Interview: Professor J. Finkelman, Chairman, O.L.R.B., May 9, 1963.
9 *Ibid.*
10 *Ibid.*
11 Professor Crispo: Paper delivered to the Spring meeting of the Industrial Relations Research Association in Montreal. May 1963.
12 The case of Beau Brummell Inc., and Crown Royal Clothing Company, Montreal, Respondent, and Local 274, Montreal Joint Board Amalgamated Clothing Workers of America, CLC-AFL/CIO, Montreal, Applicant. *Bulletin Mensuel d'Information* (avril 1963), p. 72.
13 DAVEY, Harold William. *Contemporary Collective Bargaining* (Englewood Cliffs, N.J.: Prentice-Hall, 1959), p. 50.
14 *Ibid.*, p. 53.
15 CHAMBERLAIN, Neil W. *Labor* (New York: McGraw-Hill, 1958), p. 366.
16 DAVEY, Harold William. *Contemporary Collective Bargaining* (Englewood Cliffs, N.J.: Prentice-Hall, 1959), p. 53.
17 See Appendices F and X.
18 See Appendix G.
19 See Appendix F.
20 The multi-employer provision governing the W.L.R.B., namely Section 5(3) of the Order in Council P.C. 1003, did not require the consent of all employers.
21 See Appendices F, G, and H.
22 Tank Truck Transport Limited, Ontario High Court, August 2, 1960, Dominion Law Reports, Toronto, November 24, 1960.
23 See multi-employer bargaining in Quebec and Ontario, Appendices N and P.
24 Canada Labour Relations Board, March 1, 1950.
25 The case of the International Longshoremen's Association, Local 375, Atlantic & Gulf Stevedores Ltd., Brown & Ryan, C.P. Steamships Ltd., Cullen Stevedoring Co. Ltd., Cunard Steamship, Eastern Canada Stevedoring, Empire Stevedoring, Furness Whitby, McLean

Kennedy, Montreal and St. John Stevedore, Wolfe Stevedoring, as represented by the Shipping Federation of Canada, Respondents; and the Brotherhood of Railway & Steamship Clerks, Freight Handlers, Express and Station Employees (Shed employees, Port of Montreal), Intervener. (The Labour Gazette, March 1962, p. 331.)

26 Section 12(3) stipulated that "where an application for certification is made by a labour organization for a unit in which the employees are employed by two or more employers, the Board shall not certify the bargaining authority unless: (a) The unit is appropriate for collective bargaining in respect of all the employers; and (b) a majority of the employers have consented to representation by one bargaining authority."

27 See Appendix X.

28 Interview: Mr. D. W. Coton, Registrar, B.C.L.R.B., May 28, 1963.

29 See the Paper delivered by Mr. W. H. Sands, Deputy Minister of Labour, B.C., Chairman, B.C.L.R.B., to the Industrial Contractors Assn. of Canada, Victoria, B.C., February 28, 1961, p. 9.

30 Interview: Mr. W. H. Sands, Deputy Minister of Labour and Chairman, B.C.L.R.B., May 28, 1963.

31 Interview: Mr. D. W. Coton, Registrar, B.C.L.R.B., May 28, 1963.

32 Source: B.C.L.R.B.

33 Source: Petition of Palm Dairies to B.C.L.R.B. to remove the company from a poly-party certificate, October, 1962.

34 Interview: Mr. D. W. Coton, Registrar, B.C.L.R.B., May 28, 1963.

35 The Review of the Decision of the Labour Relations Board vs. Hotel and Restaurant Employees' International Union, Local 29 and Alcazar Hotel Employees' Mutual Benefit Association by the Supreme Court of British Columbia.

"The reasons for judgment in this case were rendered by the Honourable Mr. Justice Clyne, on December 10, 1953. On the basis of this decision, on January 6, 1954, the B.C.L.R.B. notified Local 260 that a vote would be taken at the Georgia Hotel and at the Niagara and Marble Arch Hotels."

"On January 7, 1954, the Association applied to Mr. Justice Wood, who granted an order nisi for the issue of a writ of prohibition directed to the Board prohibiting the certification of Local 260 as the bargaining authority for the three hotels and the taking of votes therein. Local 28 intervened and has supported the Association throughout. The order nisi was discharged by Mr. Justice Manson, February 2, 1954. On March 26, 1954 the order of the latter was reversed by the Court of Appeal for British Columbia, Mr. Justice Sidney Smith dissenting." *Bulletin of Summary of Activities of B.C.L.R.B.* (February 12, 1955), pp. 6, 7.

Subsequently, the Court of Appeal granted leave to Local 260 to appeal the decision to the Supreme Court of Canada. (British Columbia Hotel Employees' Union, Local 260, vs. British Columbia Hotels Association and Hotel and Restaurant Employees' Union, Local 28, and the B.C.L.R.B. before the Supreme Court of Canada, the Chief Justice Rand, and Estey, Locke and Cartwright, JJ.)

On January 25, 1955, the Supreme Court of Canada reversed the judgment of the Court of Appeal of British Columbia and restored the order of Justice Manson.

36 The case of Beau Brummell Inc., and the Crown Royal Clothing Company, Montreal, Respondent, and Local 274, Montreal Joint Board, Amalgamated Clothing Workers of America, CLC-AFL/CIO, Montreal, Applicant. *Bulletin Mensuel d'Information* (avril 1963), p. 72.

37 Section 4 of the Q.L.R.A. states that: "Every employer shall be bound to recognize as the collective representative of his employees the representatives of any association comprising the absolute majority of his said employees and to negotiate with them, in good faith, a collective labour agreement."

"Several associations of employees may join to make up such majority and appoint representatives for purposes of collective negotiation upon such conditions, not inconsistent with this act, as they may deem expedient."

38 Collective Agreement effective from July 1, 1962 to June 30, 1963.

39 Juridical Extension and the Building Trades in Quebec. Paper delivered by Father Gerard Hébert, S.J., to the Industrial Relations Research Association, Spring 1963.

40 See Appendix P.

41 Interview: Mr. P. G. Makaroff, Chairman, S.L.R.B., May 16, 1963.

42 The S.L.R.B. certified the Carpenters Union No. 1867, chartered by the United Brotherhood of Carpenters and Joiners of America, as a bargaining agent for "all carpenters (not including carpenter foremen with the authority to hire or discharge) within the limits of the geographical jurisdiction of the Carpenters Union No. 1867 as determined by or pursuant to the Constitution of the United Brotherhood of Carpenters and Joiners of America employed by the Douglas Construction Company Limited, Smith Bros. and Wilson Limited, Poole Construction Company Limited, Norman Hilsden and Joseph Smith, jointly carrying on a business under the name and style of Hilsden, Smith and Company in the City of Regina and Harvey Lunam, carrying on a business under the name and style of Harvey Lunam Construction Company in the City of Regina." (Certificate granted December 5, 1946.)

43 The S.L.R.B. certified the Retail, Wholesale and Department Store Union, AFL-CIO/CLC, as the bargaining agent for "all employees employed by Custom Cleaners Limited and Belgian Dry Cleaners, Dyers and Furriers Limited, in or in connection with their places of business located in the City of Saskatoon, in the Province of Saskatchewan." (Certificate granted August 13, 1959.)

44 The case of the International Association of Machinists, Lodge 1709, Applicant; and Great West Implement Company Ltd., Respondent. (Decisions of the S.L.R.B. for the year 1945, p. 69.)

45 *Ibid.*

46 Correspondence with Mr. C. R. McQuaid, Chairman, P.E.I.L.R.B., August 21, 1963.

47 Section 9(3) (a and b) of the Regulations under the Ontario Labour Relations Act of 1948, stipulated that "where an application for certification under these regulations is made by a trade union claiming to have as members in good standing a majority in a unit that is appropriate for collective bargaining, which includes employees of two or more employers, the Board shall not certify the trade union as the bargaining agent of the employees in the unit unless:

a) all employers of the said employees consent thereto; and

b) the Board is satisfied that the trade union might be certified by it under this regulation as the bargaining agent of the employees in the unit of each such employer, if separate applications for such purpose were made by the trade union."

48 Interviews with Professor J. Finkelman, Chairman, O.L.R.B., and Mr. G. W. Reed, Alternate Chairman, O.L.R.B., May 9, 1963.

49 Interview: Mr. K. A. Pugh, Alberta Deputy Minister of Labour, Chairman, A.B.I.R., May 21, 1963.

50 In an interview, Mr. Pugh expressed the opinion that he objects to multi-employer certification as a matter of principle. However, he felt that multi-employer certifications could be acceptable under certain circumstances, for instance, if the union requesting a multi-employer unit obtained a majority in each plant of each employer in the unit; otherwise, the big firms, with many employees, would be in a position of making decisions for the smaller firms. Mr. Pugh also stated that it is an unwritten policy of the A.B.I.R. to protect minorities of employees.

51 Interview: Mr. M. T. McKelvey, Registrar, M.L.B., May 14, 1963.

52 The M.L.B. is not particularly interested to change the existing state of affairs by promoting certification applications or favouring amendments of the existing legislation. The Registrar of the M.L.B., Mr. McKelvey, in an interview with this writer, stated that he saw no advantage in multi-employer certifications.

53 Interview: Mr. Byron D. Anthony, Director of Labour Relations, Nova Scotia Department of Labour, May 7, 1963.

54 *Ibid.*

55 Certificate No. 134, June 31, 1951.

56 Interview: Mr. Byron D. Anthony, Director of Labour Relations, Nova Scotia Department of Labour, May 7, 1963.

57 McKINNON, A. H. *Report of Fact-Finding Body re Labour Legislation* (Antigonish, N.S.: February 1, 1963), p. 66.

58 See Appendix P.

59 See Appendix N.

60 Donlands Dairy, Paul Blantyre, Devon, Acme Co., Bordon, Rutherfords, Olive Farms Dairy, Findlay Dairy, Uplands Dairy, Rogers Dairy, Kemp Fairgrow Dairy, Roselawn Dairy, Hastings Dairy. Source: Collective Agreements, federal Department of Labour, Economics & Research Branch.

61 For example, in December 1946, the O.L.R.B. certified the Milk Drivers Union Local 647 as a bargaining agent for a unit of "all milk route salesmen and supervisors in the employ of Borden Company." Source: Collective Agreements, federal Department of Labour, Economics & Research Branch.

62 *The Labour Gazette* (March 1951), p. 212

63 The Tobacco Union was certified on October 28, 1958 by the O.L.R.B. as a bargaining agent for "all employees of Imperial Tobacco Company (Ontario) Limited at its plant at Guelph."

64 In Calgary, the Hotel and Restaurant Employees' Union, Local 282, Calgary, is bargaining on a multi-employer basis with the following hotels: Carlton Hotel; Dominion Hotel; Empress Hotel; Imperial Hotel; Noble Hotel; St. Regis Hotel; Yale Hotel; York Hotel; Victoria Hotel; all of Calgary, Alberta. Source: *Bulletin on the Activities of the A.B.I.R.* (1959), Conciliation Data.

65 In Edmonton: the Operative Plasterers' and Cement Masons' International Association, Local No. 924, Edmonton, is bargaining on a multi-employer basis with the following construction firms: Bird Construction Company Ltd.; Burns & Dutton Concrete & Construction Company; Christenson & Macdonald Ltd.; Dominion Construction Company Ltd.; Industrial Concrete Floors Ltd.; Poole Construction Company Ltd.; all of Edmonton, Alberta. Source: *Bulletin on the Activities of the A.B.I.R.* (1959), Conciliation Data.

66 In Edmonton: The Edmonton Printing Pressmen and Assistants' Union, Local 255, and Canadian Graphic Arts Association (Edmonton Branch) is bargaining on a multi-employer basis with the following printing firms: Commercial Printers Ltd.; Douglas Printing Company Ltd.; Moore Printing Company Ltd.; Coles Printing Company Ltd.; A.B.C. Press; Hamley Press Ltd.; Metropolitan Printing Company Ltd.; Modern Press Ltd.; Peerless Printers; Reliable Printing Company Ltd.; Bradburn Printers Ltd.; Sun Publishing Company Ltd.; Sterling Printers & Stationers Ltd.; Jasper Printing Ltd. Source: *Bulletin on the Activities of the A.B.I.R.* (1959), Conciliation Data.

67 Discussions with Professor H. D. Woods, 1963.

# APPENDICES

# Appendix A*

CANADA LABOUR RELATIONS BOARD

Completed by:.....

Date:.....

*Memorandum in Connection with Inquiries to be Used by Industrial Relations Investigators when Making Investigations with Respect to the Functions of Foremen and Other Supervisory Employees*

Classification or position under consideration.....

1. The right to employ and discharge.
   (a) To act on own authority
   (b) To effectively recommend such action.
2. The right to suspend employees.
   (a) To act on own authority
   (b) To effectively recommend such action.
3. The right to promote, demote or transfer employees.
   (a) On own authority
   (b) To effectively recommend such action.
4. The right to invoke disciplinary measures.
   (a) To act on own authority
   (b) To effectively recommend such action.
5. Responsibility in the matter of granting of time off and leave of absence.
6. Are confidential reports required of employees under their jurisdiction, such as employee appraisals, ability ratings, general attitude reports, etc.?
7. The extent, if any, that such people participate in the development of company policies.
8. Does their supervisory authority include assignment and scheduling of work?
9. Do such people participate in supervisory meetings for the purposes of training and development?
10. Does their authority include the approving of time worked, which is used as a basis of pay calculations for employees under their jurisdiction?
11. Does the authority include approving of maintenance orders with respect to equipment, repairs, etc.?
12. In the absence of a higher level of management, do such employees assume the responsibilities of such superiors?
13. Do such employees represent management on any committee, including labour management committees?
14. What privileges, if any, are granted to such people which are not granted to the rank and file employees under their jurisdiction?
15. Responsibility with respect to wage rate changes.
   (a) Actual approval
   (b) To effectively recommend such changes.
16. Job Description (list of chief duties and proportion of working time spent in such duties):

*Memorandum used by investigators of the Canada Labour Relations Board when making investigations with respect to the functions of foremen and other supervisory employees.

# Appendix B*

## CANADA LABOUR RELATIONS BOARD

Completed by:.....

Date:.....

*Memorandum in Connection with Inquiries to be Used by Industrial Relations Investigators when Making Investigations with Respect to the Functions of Certain Employees Who Although Not Employed in a Supervisory Capacity may be Employed in a Confidential Capacity*

Classification or position under consideration.....

1. Do such employees have access to employees' records?
2. Are such employees engaged in payroll work?
3. Are such employees engaged in the setting of standards of performance, e.g., time or motion study?
4. Are such employees handling confidential correspondence, such as matters concerning employees or production costs?
5. Are such employees involved in checking or auditing accounts of other employees?
6. Are such employees required to report on, or investigate the actions of other employees, e.g., safety inspection?
7. The extent, if any, that such people participate in the development of company policies?
8. What privileges, if any, are granted to such people which are not granted to rank and file employees?
9. Do such employees represent management on any committee, such as labour management committees or safety committees?
10. Job description (list of chief duties and proportion of working time spent in such duties):

*Memorandum used by investigators of the Canada Labour Relations Board when making investigations with respect to the functions of employees in a confidential capacity.

# Appendix C*

## CANADA LABOUR RELATIONS BOARD

Case File No.....

*Questionnaire to Assist in Determining the Nature and Extent of Management Functions Exercised by Employees*

Classification or position under review .....

Information obtained from .....
(applicant, employer or employee)

Name and title of person providing information:

.....

.....

*Note Well Before Completing Form*

This questionnaire will normally be completed by the Investigating Officer from information obtained by him from representatives of both the trade union and employer concerned or with the employee affected if necessary. Answers and necessary explanations should be entered in the space provided following the questions. Please see to it that where an employee is said to exercise supervisory authority with respect to other employees in the bargaining unit, a clear explanation is given of the extent of such authority and how it is exercised.

1. Does the employee participate in hiring by interviewing, testing, recommending, selecting or rejecting job applicants? (specify)
2. Does the employee participate in directing the working force:
   (a) By directly supervising other employees?
   (b) By assigning work to other employees?
   (c) By effecting the promotion, demotion, transfer, suspension, lay-off or discharge of other employees? (specify)
   (d) By assessing the qualifications of other employees to continue to perform work?
   (e) By enforcing company rules?
   (f) By establishing production methods or standards?
3. What employees, if any, are under the supervision of this employee?
4. In what manner has the employee been made aware of the duties, responsibilities and authority of his position?
5. In what manner have the employees supervised been made aware of the authority of his position?
6. What percentage of the employee's working time is spent in the exercise of supervisory duties?
7. What percentage of the employee's time is spent in doing the same work as the employee being supervised?
8. Indicate the supervisory status of the employee in relation to other supervisory personnel in the employ of this employer:
   (a) By reporting the next immediately higher position
   (b) By reporting the next immediately lower position
   (c) By reporting positions of equal or comparable rank.

*Questionnaire used by investigators of the Canada Labour Relations Board when making investigations with respect to the nature and extent of management functions exercised by employees.

9. In the absence of a higher level of management does the employee assume the responsibilities of superiors? (specify)
10. Does the employee participate in collective bargaining as a representative of management by negotiating, handling grievances, conducting correspondence, or attending meetings to discuss company collective bargaining policy or action? (specify)
11. Does the employee represent management on committees, such as labour-management, wage, safety, standards and methods, educational or other committees? (specify)
12. Does the employee maintain or have the right of access as part of his duties to confidential personnel records (if such records are confidential) or other records regarded as confidential which might affect labour relations and collective bargaining? (If the answer is "yes" explain the nature of records and use thereof made by employee.)
13. Does the position filled by the employee entitle him to privileges not given to other employees in the bargaining unit? (If "yes", what privileges?)
14. Does the position carry with it the opportunity to participate in any formalized program of management training in the company?
15. (a) Sum up the responsibilities and activities pertaining to the position or classification which are considered by the interested parties to warrant its exclusion from the bargaining unit.
    (b) Does the discharge of these responsibilities require the exercise of independent judgment or effective authority?
16. Give a job description (chief duties) of the position or classification under review, stating the proportion of working time spent in such duties:

# Appendix D*

## CANADA LABOUR RELATIONS BOARD

Case File No. .....

*Questionnaire to Assist in Determining the Nature and Extent of Confidential Functions Exercised by Employees in Matters Relating to Labour Relations*

Classification or position under review .....

Information obtained from .....
(applicant, employer or employee)

Name and title of person providing information:

.....

.....

*Note Well Before Completing Form*

This questionnaire will normally be completed by the Investigating Officer from information obtained by him from representatives of both the trade union and employer concerned or with the employee affected if necessary. Answers and necessary explanations should be entered in the space provided following the questions. Please see to it that where an employee is said to be employed in a confidential capacity in matters relating to labour relations, a clear explanation is given concerning the nature, extent and exercise of such employment.

1. Does the employee participate in collective bargaining as a representative of management by negotiating, handling grievances, conducting correspondence, or attending meetings to discuss company collective bargaining policy or action?
2. Does the employee maintain, prepare or participate in preparing or have the right of access as a regular part of his duties, to confidential information or records which affect or may affect labour relations or the course of collective bargaining, such as:
   (a) Salary records:
   (b) Company financial records?
   (c) Company operating records?
   (d) Standards of performance, i.e., job evaluation, time and motion study records?
3. Does the employee maintain, prepare or participate in preparing or have the right of access, in the regular course of his duties, to confidential information or records concerning other employees in the bargaining unit, such as:
   (a) Employment tests, merit or ability ratings records?
   (b) Reports of inquiries or investigations conducted by the employer through inside or outside agencies into the conduct, attitude or ability of other employees in the bargaining unit?
4. Does the employee develop or assist in the development of company policies or have access to confidential information or records pertaining thereto?
5. Does the employee act as authorized payroll signing officer for the employer?
6. Does the employee represent management on any committees inside or outside company, such as personnel, wage, labour management, safety, standards and methods or other committees?

*Questionnaire used by investigators of the Canada Labour Relations Board when making investigations with respect to the nature and extent of confidential functions exercised by employees in matters relating to labour relations.

7. Does the position carry with it the opportunity to participate in any formalized program of management training in the company?
8. Give the title of the official to whom the employee reports or for whom he principally works.
9. In what manner, if any, has the employee been advised of the confidential nature of his duties?
10. Report any other factors which make the position confidential in terms of labour relations or collective bargaining.
11. Sum up the confidential duties, responsibilities and activities which are considered by the interested parties to warrant its exclusion from the bargaining unit.
12. Give a job description (chief duties) of the position under review, stating the proportion of working time spent in such duties:

# Appendix E*

## CANADA LABOUR RELATIONS BOARD

### *Protective Personnel*

1. Under what occupational classification are employees operating?
   (a) guards ( )
   (b) police ( )
   (c) gatemen ( )
   (d) watchmen ( )
   (e) patrolmen ( )
2. Is position or classification sworn in as special constables either in the local police or provincial police?
3. Does position or classification carry fire-arms?
4. Does position or classification have authority to search employees or employees' automobiles?
5. Are the security and watchmen duties associated with other duties? If so, explain.
6. Is it ever necessary for position or classification to consult the local police or provincial police in the matter of confidential investigations concerning employees?
7. Does position or classification make confidential reports to the company regarding the conduct and activities of employees?
8. Does position or classification wear uniforms, badges or other symbols of authority?
9. Job description (chief duties) of position or classification:

NOTE:

A watchman who is simply guarding a manhole or excavation in order to make sure that no person becomes injured is not regarded as being employed in a confidential capacity, yet a watchman who patrols a plant or an area may in effect be functioning as a policeman, even though he may not be sworn in as such.

*Questionnaire used by investigators of the Canada Labour Relations Board when making investigations with respect to the nature and extent of functions exercised by protective personnel.

# Appendix F

## CANADA LABOUR RELATIONS BOARD

*List of Multi-Employer Unit Certifications*
*Granted in the Period 1948-1963*

On December 17, 1953, the Canada Labour Relations Board certified the International Longshoremen's and Warehousemen's Union, Local 509, as bargaining agent for a unit of employees of British Columbia Coast Steamship Service (Canadian Pacific Railway Company), Canadian National Steamship Co. Ltd., General Sea Transportation Limited, the Packers Steamship Company Limited, Union Steamships Limited and Frank Waterhouse and Company of Canada Limited, and Griffiths Steamship Company Limited, represented by the Shipping Federation of British Columbia (Coastwise Section), Vancouver, B.C., comprising longshoremen employed in the loading and unloading of handling of cargoes to and from coastwise ships, scows and barges operated by the Respondents in the Vancouver, B.C., area, excluding foremen from the bargaining unit. (766: 488: 53).

On January 19, 1954, the C.L.R.B. certified the Victoria and District Waterfront Workers, Local No. 560, as bargaining agent for a unit of employees of the Respondents, Empire Stevedoring Company Limited and Canadian Stevedoring Company Limited, both of Vancouver, B.C., represented by the Shipping Federation of British Columbia, comprising longshoremen engaged in the loading and unloading of deepsea vessels in the Victoria District, including Victoria and Esquimalt Harbours, Cowichan Bay and James Island, excluding foremen from the bargaining unit. (766: 454: 53)

On April 7, 1954, the Board certified the International Longshoremen's and Warehousemen's Union, Local Union 505, as bargaining agent for a unit of employees of the Respondents, the British Columbia Coast Steamship Service (Canadian Pacific Railway Company), Union Steamships Limited, Frank Waterhouse and Company of Canada Limited, Canadian National Steamships, General Sea Transportation Limited, Griffiths Steamships Company Limited, the Packers Steamship Company Limited, Pacific Stevedoring and Contracting Company Limited, and Canadian Stevedoring Company Limited, as represented by the Shipping Federation of British Columbia, comprising longshoremen employed in the loading and unloading of coastwise ships operated by the Respondents in the Port of Prince Rupert, including the loading of railway cars direct from ships and the unloading of railway cars direct to ships, excluding foremen and employees employed in the handling of goods only between the dock or shed and railway cars and the shifting of goods in the shed (freight truckers and freight stowers). (766: 461: 54)

On February 13, 1957, the Board certified the International Longshoremen's and Warehousemen's Union, Local 504, as bargaining agent for a unit of employees of the Respondents, Empire Stevedoring Company Limited, Canadian Stevedoring Company Limited and Western Stevedoring Company Limited, all of Vancouver, B.C., represented by the Shipping Federation of British Columbia, comprising longshoremen engaged in the loading and unloading of deepsea vessels in the Victoria District, including Victoria and Esquimalt Harbours, Cowichan Bay and James Island, excluding foremen from the bargaining unit. (766: 735: 57)

On April 25, 1957, the Board certified the United Marine Workers' Division of District 50, United Mine Workers of America, as bargaining agent for a unit of employees of the Respondents, Clarke Steamship Co. Limited and associated companies: La Compagnie de Transport du Bas St. Laurent Ltee, Magdalen Islands Transportation Company Limited, North Coast Steamship Co. Ltd., North Pioneer Steamship Co. Ltd., Gulf Ports Steamship Co. Ltd., Terra Nova Steamship Co. Ltd., La Traverse Rivère-du-Loup St-Simeon Limitée, La Compagnie de Navigation Charlevoix-Saguenay Limitée, and Inter Island Steamship Company Limited, comprising unlicensed employees employed abroad the vessels owned or operated by the said Respondents, *excluding* masters, mates and marine engineers from the bargaining unit. (766: 749: 57)

On May 7, 1958 the Board certified Local 128, United Marine Workers, Division of District 50, United Mine Workers of America, as bargaining agent for a unit of employees of the Respondents, Clarke Steamship Co. Limited, and associated companies: La Compagnie de Transport du Bas St. Laurent Ltee., Magdalen Islands Transportation Company Limited, North

Coast Steamship Co. Ltd., North Pioneer Steamship Co. Ltd., Gulf Ports Steamship Co. Ltd., Terra Nova Steamship Co. Ltd., La Traverse Rivière-du-Loup St-Simeon Limitée, La Compagnie de Navigation Charlevoix-Saguenay Limitée, and Inter Island Steamship Company Limited, comprising licensed employees classified as chief officer, second and third officer, second, third and fourth engineer, employed abroad the vessels owned or operated by the said Respondents, excluding captains, chief engineers, and chief stewards from the bargaining unit. (766: 876: 58)

On March 13, 1959, the Board certified the International Longshoremen's Association, as the bargaining agent for a unit of employees of the Respondents, Albert G. Baker Limited and Quebec Terminals Limited, comprising employees classified as cargo checker and baggage checker, employed in the Port of Quebec, *excluding* baggage masters from the bargaining unit. (766: 973: 59)

On September 10, 1959, the Board certified the International Longshoremen's and Warehousemen's Union, Local 507, as the bargaining agent for a unit of employees of the Respondents, American Mail Line Limited, Anglo Canadian Shipping Company Limited, Balfour, Guthrie (Canada) Limited, B.C. Ship Chartering Company Limited, Canada Shipping Company Limited, Canadian Blue Star Line (1940) Limited, Canadian Pacific Railway Company, Canadian Stevedoring Company Limited, Canadian Transport Company Limited, Coastwise Pier Limited, The Consolidated Mining and Smelting Company of Canada, Limited, Dingwall Cotts and Company Limited, Dodwell and Company Limited, Empire Shipping Company Limited, Empire Stevedoring Company Limited, Evans, Coleman Wharf Company Limited, Furness, Withy and Company Limited, B. W. Greer and Son (1947) Limited, Griffiths Steamship Company Limited, Johnson, Walton Steamships Limited, C. Gardner Johnson Limited, Kingsley Navigation Company Limited, North Pacific Shipping Company Ltd., Overseas Transport Company Limited, Pacific Export Lines Limited, Pacific Marine Freighters Limited, Royal Mail Lines Limited, Seaboard Shipping Company Limited, Terminal Dock and Warehouse Company Limited, Trans-Oceanic Shipping Agency, Union Steamship Company of New Zealand Limited, Western Canada Steamship Company Limited, Western Stevedoring Company Limited, Westward Shipping Limited, Louis Wolfe and Sons (Vancouver) Limited, Vancouver Weighmark Reconditioning Ltd., Saguenay Shipping Limited, and Alexander and Baldwin Ltd., represented by the Shipping Federation of British Columbia, comprising employees engaged in lining and fitting for grain and livestock, the dismantling of false decks (as used for the carriage of motor cars) after the cargo has been discharged from same; the erecting of false decks (as used for the carriage of apples); the erecting of false bulk heads; the construction of catwalks and other similar carpentry work for the protection and care of cargo; all of the foregoing on deepsea vessels inside the First Narrows at Vancouver, B.C., and inside the Harbour of New Westminster, B.C., whether at berth or in stream, *excluding* waterboys, foremen, and supervisory staff from the bargaining unit. (766: 984: 59)

Honorable Allan J. MacEachen, Minister of Labour, announced that on July 22, 1963, the Board certified the International Longshoremen's Association, Local No. 1846, as the bargaining agent for two units of freight handlers employed by J. C. Malone and Company (1959) Limited and the Three Rivers Shipping Company Limited in the sheds and on the docks at Trois-Rivières and Cap de la Madeleine, Qué.

Certificates were issued in respect of two units of freight handlers employed by the companies and engaged in receiving and shipping deepsea and coastal freight. The Board's decisions affect 16 employees of J. C. Malone and Company (1959) Limited and 22 employees of Three Rivers Shipping Company Limited. (C.L.R.B. 1808)

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SOURCE: Secretary of Canada Labour Relations, Mr. J. L. MacDougall.

# Appendix G

## WARTIME LABOUR RELATIONS BOARD

*List of Multi-Employer Unit Certifications*
*Granted in the Period 1944-1948*

Certificates issued to:

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Local No. 932 and McArthur and Son Limited and McArthur Transportation Company Ltd., Brandon, Man.[1] — Following an investigation by an officer of the Board, the local Union and Messrs. E. Houle, S. Strawn, J. Bjarnason, R. Hart, and J. O. Rennick were certified as bargaining representatives for the employees of both companies, except executives, stenographers, clerks, cashiers, despatchers, accountants, and superintendents (foremen).[2]

International Union of Mine, Mill and Smelter Workers, Local 800 and Dominion Bridge Company Limited and Riverside Iron Works Limited, Calgary, Alta.,[3] — Following a representation vote of the employees of each company conducted by direction of the Board, the Union and Messrs. John Munro, W. Erenki, H. Hewitt, W. Wysyk, James Whittit and Ray Lee were certified as bargaining representatives for the employees of both companies except journeymen moulders, coremakers, foremen and all others having the right to hire and discharge.[4]

The Canadian Seamen's Union and Sarnia Steamships Limited and its subsidiary Colonial Steamships Limited, Port Colborne, Ont.[5] — Following an investigation of the Union's membership records and a public hearing, the Union and Messrs. Dewer Ferguson, J. A. Sullivan and C. E. Lenton wre certified as bargaining representatives for the unlicensed personnel employed on the vessels of the Sarnia Steamships Limited and its subsidiary, Colonial Steamships Limited, Port Colborne, Ont.[6]

The International Longshoremen's Association, Locals 375 and 1552, and the Shipping Federation of Canada Inc., on behalf of certain shipping companies, Montreal, P.Q.[7] Local 375, International Longshoremen's Association and Messrs. Karl Trolsaas, Donat Bibeault and J. M. Shannon were certified as bargaining representatives for the gang foremen and longshoremen; while Local 1552, International Longshoremen's Association and Messrs. F. A. Robillard, J. R. Arcand and E. Germaine were certified as bargaining representatives for the shipliners and gang foremen, employed by the Shipping Federation of Canada on behalf of Furness Withy and Co. Ltd.; Canadian National Steamships Ltd.; Canadian Pacific Steamships Ltd.; McLean Kennedy Ltd.; County Line Ltd.; Montreal Australia New Zealand Line; New Zealand Shipping Co. Ltd.; Elder Dempster Lines Ltd.; International Mercantile Marine Co. (Can.) Ltd.; Montreal Shipping Co. Ltd.; Alcoa Steamship Co. Inc.; Joseph Constantine Steamship Line; Shipping Ltd.; St. Lawrence Freighting Corp. Ltd.; March Shipping Agency Ltd.; and The Robert Reford Co. Ltd., on behalf of Cunard White Star Limited, Donaldson Atlantic Line, Donaldson Bros. Ltd., Blue Funnel Line, acting through the Shipping Federation of Canada, Inc., Montreal, P.Q., presently represented by the Shipping Federation of Canada, Inc., Montreal, P.Q.

Certification of bargaining representatives in each case followed an examination of the Union's membership records by an Officer of the Board. A public hearing on the application was also held by the Board.[8]

International Longshoremen's Association, Local 38-162 and Canadian Stevedoring Company Limited, Vancouver, B.C., and the Empire Stevedoring Company Limited, Victoria, B.C.[9] - The Union and Messrs. James Lackie, W. N. Scott, E. Gilroy, Henry Schacht, Jack

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[1]The Labour Gazette, 1944, p. 968.
[2]*Ibid.* 1944, p. 1335.
[3]*Ibid.* 1944, p. 968.
[4]*Ibid.* 1944, p. 1479.
[5]*Ibid.* 1944, p. 1337.
[6]*Ibid.* 1944, p. 1480.
[7]*Ibid.* 1944, p. 968.
[8]*Ibid.* 1944, pp. 1480-81.
[9]*Ibid.* 1944, p. 1338.

Rainey, Clifford Richards and John Quinn were certified as bargaining representatives for longshoremen employed by the Canadian Stevedoring Company Limited, Vancouver, B.C., and the Empire Stevedoring Company Limited, Victoria, B.C., except foremen employed by the companies in the Victoria District, including James Island and Cowichan Bay, B.C.

Certification of bargaining representatives followed an examination of the Union's membership records in each case by an Officer of the Board.[10]

Western Canada Firebosses Association No. 1 (T. & L.C.) and Crows Nest Pass Coal Company Limited, Fernie, Michel, Cold Creek and Elk River, B.C.; International Coal and Coke Company Limited, Coleman, Alberta; Western Canadian Collieries Limited, Blairmore, Bellevue and Byron Creek, Alberta; and Hillcrest Mohawk Collieries Limited, Bellevue, Alberta.[11] — Following a public hearing and an investigation of the application by an Officer of the Board, the Local Union and Messrs. W. Patterson, J. McIsaac, A. Grand and J. T. Griffith were certified as bargaining representatives for the Firebosses employed by the employing companies.[12]

National Union of Firebosses, Local No. 1 (C.C.L.) and sixteen coal mining companies in the Drumheller district and represented by the Drumheller Coal Operators Association, Drumheller, Alberta.[13] — The Union and Messrs. James Conroy, John Young, Wm. B. Henry, Andrew Black, Jr. and Frank Case were certified as bargaining representatives for the Firebosses employed by sixteen coal mining companies in the Drumheller district and represented by the Drumheller Coal Operators Association, Drumheller, Alberta. Certification followed a public hearing and an investigation of the application by an Officer of the Board.[14]

The International Longshoremen's and Warehousemen's Union, Local 501, and various Shipping Companies represented by the Shipping Federation of B.C., Vancouver, B.C.[15] — Messrs. Rosco Craycraft, Steve Glunas, Austin Smith, Joseph Boyes, Peter Hughes, J. A. Taylor, W. H. Chawner, J. R. Burgess, S. R. MacKenzie, Tim Moody, D. Jacobson, Edward Upton, Frank Baker, Joe D. Jacobson, Joe Jerome, Al Bates and Morris Smith of Local 501, International Longshoremen's and Warehousemen's Union were certified as the properly chosen bargaining representatives of the deepsea longshoremen employed on behalf of various shipping companies by the Shipping Federation of B.C., Vancouver, B.C., unloading and handling cargoes to and from deepsea vessels in the Vancouver area. Certification followed a public hearing and an investigation of the application by an Officer of the Board.[16]

Messrs. Harry Davis, T. G. McManus, D. Ferguson and J. A. Sullivan and the Canadian Seamen's Union for the unlicensed personnel employed on the vessels "S/S Cyclo Chief" of Cyclo Chief Limited, Montreal, P.Q. and "S/S Cyclo Warrior" of Cyclo Warrior Limited, Montreal, P.Q.[17]

Messrs. J. A. Sullivan, H. Davis, T. G. McManus and Conrad Sauras and the Canadian Seamen's Union for the unlicensed personnel in the employ of Lakes and St. Lawrence Navigation Company, Cardinal, Ontario, and Power Transports Limited, Winnipeg, Manitoba.[18]

Messrs. Claude Henson, Ormond Hay, Jean Lesiuk, William Zebrinski, Reid Robinson, Chase Powers, Harvey Murphy and Donald Guise, and Yellowknife District Miner's Union, Local 802, International Union of Mine, Mill and Smelter Workers for employees of Forsberg, Finney and Swanson, Con Mine, Yellowknife, N.W.T. in the classification of hoistman, deckman, steel sharpener and shaftman. Excluded from the bargaining unit the classifications of shaft captain and clerk.[19]

Division No. 4 Railway Employees' Department, American Federation of Labour and the principal Canadian officers of the Division's eight component craft unions for some 32,500 employees of the following railways represented by the Railway Association of Canada: Canadian National Railways, the Canadian Pacific Railway Company, the Dominion Atlantic Railway, the Esquimalt and Nanaimo Railway, the Quebec Central Railway, the Northern Alberta

[10] *Ibid.* 1944, p. 1481.
[11] *Ibid.* 1944, p. 968.
[12] *Ibid.* 1945, p. 285.
[13] *Ibid.* 1944, p. 1338.
[14] *Ibid.* 1945, pp. 285-86.
[15] *Ibid.* 1944, p. 1482.
[16] *Ibid.* 1945, p. 289.
[17] *Ibid.* 1946, p. 1219.
[18] *Ibid.* 1946, p. 1556.
[19] *Ibid.* 1947, p. 326.

Railway Co., the Ontario Northland Transportation Commission and the Toronto, Hamilton and Buffalo Railway Co. The employees covered by the certification consist of blacksmiths, boilermakers, carmen, electricians, machinists, moulders, sheet metal workers, plumbers and steamfitters, and their helpers and apprentices, together with gang foremen and leading hands of the various crafts, all of whom are covered by Wage Agreement No. 6 between the Railway Association of Canada and Division No. 4, Railway Employees' Department, AF of L.[20]

Cargo and Gangway Watchmen's Union (Local 1720), International Longshoremen's Association) and certain of its officers for cargo and gangway watchmen employed at Saint John, N.B., by various steamship companies and agencies, represented by The Shipping Federation of Canada.[21]

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[20] *Ibid.* 1947, p. 957.
[21] *Ibid.* 1947, p. 1131.

# Appendix H

## FIRMS ENGAGED IN MULTI-EMPLOYER BARGAINING UNDER FEDERAL JURISDICTION

Shipping Federation of British Columbia representing 40 employers at Vancouver, Port Alberni, Victoria and New Westminster, B.C., – and – The International Longshoremen's Association Locals 501, 502, 503 and 508 negotiate on a multi-employer basis. The union represents 1,500 employees.

A collective agreement was signed on May 1, 1960 and it is in effect until July 31, 1962.

Shipping Federation of Canada representing employers at Montreal, Quebec City, Three Rivers, Halifax and Saint John – and – the International Longshoremen's Association Locals 269, 273, 375, 1739 and 1846 negotiate on a multi-employer basis. However, separate agreements are signed for Three Rivers, Montreal, Quebec City, Que., Halifax, N.S. and Saint John, N.B. The union represents 8,000 employees.

A collective agreement was signed on July 20, 1961, it is valid until December 31, 1962.

Non-operating employees of Canadian National Railways, Canadian Pacific Railway and other Railways represented by 15 unions also negotiate agreements on a multi-employer basis with these companies. The 15 unions represent 110,000 employees.

In August 1962, the unions signed a two-year agreement with the Railways.[1]

British Columbia Towboat Owners Association representing 27 companies – and – the Seafarers International Union negotiate on a multi-employer basis for all unlicensed personnel, deck, engineroom and stewards departments.

A collective agreement was signed on January 10, 1961, it is in effect until September 30, 1964.

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[1]Current Manpower and Collective Bargaining Review, September 1962. Economics and Research Branch, Canada Department of Labour, p. 10.

# Appendix I

ANALYSIS OF APPLICATIONS FOR CERTIFICATION RECEIVED BY CANADA LABOUR RELATIONS BOARD, APRIL 1, 1949 TO MARCH 31, 1962, BY INDUSTRIES

TRANSPORTATION

| Year | Number of Workers Affected | | | | | Number of Applications | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Water | Rail-road | High-way | Air | Totals | Water | Rail-road | High-way | Air | Totals |
| 1950 | 1,054 | 2,053 | 222 | 264 | 3,593 | 26 | 21 | 5 | 8 | 60 |
| 1951 | 1,945 | 2,761 | 412 | 79 | 5,197 | 52 | 15 | 4 | 4 | 75 |
| 1952 | 1,471 | 36,469 | 519 | 979 | 39,438 | 52 | 16 | 4 | 14 | 86 |
| 1953 | 902 | 1,046 | 228 | 548 | 2,724 | 39 | 10 | 3 | 6 | 58 |
| 1954 | 1,856 | 2,123 | 14 | – | 3,993 | 24 | 10 | 1 | – | 35 |
| 1955 | 1,326 | 6,826 | 59 | 61 | 8,272 | 15 | 18 | 2 | 2 | 37 |
| 1956 | 2,415 | 3,472 | 274 | 89 | 6,250 | 46 | 14 | 8 | 2 | 70 |
| 1957 | 3,365 | 578 | 879 | 577 | 5,399 | 67 | 10 | 15 | 9 | 101 |
| 1958 | 2,706 | 510 | 1,137 | 355 | 4,708 | 42 | 11 | 23 | 8 | 84 |
| 1959 | 1,105 | 267 | 1,415 | 1,125 | 3,912 | 25 | 10 | 32 | 14 | 81 |
| 1960 | 2,565 | 14,255 | 548 | 743 | 18,111 | 67 | 12 | 14 | 13 | 106 |
| 1961 | 1,233 | 812 | 761 | 226 | 3,032 | 43 | 9 | 20 | 7 | 79 |
| 1962 | 859 | 215 | 2,292 | 219 | 3,585 | 35 | 7 | 33 | 5 | 80 |

SOURCE: Canada Labour Relations Board.

# Appendix J

## ANALYSIS OF APPLICATIONS FOR CERTIFICATION RECEIVED BY CANADA LABOUR RELATIONS BOARD, APRIL 1, 1949 TO MARCH 31, 1962, BY INDUSTRIES

MISCELLANEOUS

| Year | Number of Workers Affected | | | | | Number of Applications | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | *Other Interprovincial & International* | *Workers' for General Advantage* | *Yukon & Northwest Territories* | *Crown Corporations* | *Totals* | *Other Interprovincial & International* | *Workers' for General Advantage* | *Yukon & Northwest Territories* | *Crown Corporations* | *Totals* |
| 1950 | 505 | 268 | 0 | 134 | 907 | 6 | 3 | 0 | 3 | 12 |
| 1951 | 525 | 163 | 0 | 242 | 930 | 2 | 5 | 0 | 6 | 13 |
| 1952 | – | 334 | 86 | 2,030 | 2,450 | – | 15 | 3 | 7 | 25 |
| 1953 | – | 438 | 36 | 2,943 | 3,417 | – | 10 | 2 | 16 | 28 |
| 1954 | 155 | 506 | 578 | 2,103 | 3,342 | 8 | 4 | 2 | 6 | 20 |
| 1955 | 0 | 0 | 98 | 27 | 125 | 0 | 0 | 5 | 1 | 6 |
| 1956 | 33 | 1,582 | 840 | 106 | 2,561 | 2 | 7 | 14 | 5 | 28 |
| 1957 | 204 | 1,168 | 18 | 399 | 1,789 | 2 | 11 | 1 | 7 | 21 |
| 1958 | – | 3,475 | 113 | 788 | 4,376 | – | 21 | 3 | 10 | 34 |
| 1959 | – | 3,018 | 88 | 1,811 | 4,917 | – | 28 | 7 | 15 | 50 |
| 1960 | 3 | 6,588 | 33 | 3,585 | 10,209 | 1 | 10 | 4 | 10 | 25 |
| 1961 | – | 102 | 11 | 198 | 311 | – | 3 | 1 | 4 | 8 |
| 1962 | – | 72 | 100 | 269 | 441 | – | 1 | 4 | 5 | 10 |

SOURCE: Canada Labour Relations Board

# Appendix K

ANALYSIS OF APPLICATIONS FOR CERTIFICATION RECEIVED BY CANADA LABOUR RELATIONS BOARD, APRIL 1, 1949 TO MARCH 31, 1962, BY INDUSTRIES

COMMUNICATIONS

| Year | Number of Workers Affected | | | | Number of Applications | | | |
|---|---|---|---|---|---|---|---|---|
| | Telegraph | Telephone | Radio | Totals | Telegraph | Telephone | Radio | Totals |
| 1950 | 256 | 11,252 | 0 | 11,508 | 4 | 4 | 0 | 8 |
| 1951 | 411 | 435 | 12 | 858 | 1 | 1 | 1 | 3 |
| 1952 | 519 | – | 28 | 547 | 3 | – | 3 | 6 |
| 1953 | – | – | 121 | 121 | – | – | 3 | 3 |
| 1954 | – | – | 139 | 139 | – | – | 6 | 6 |
| 1955 | 0 | 350 | 134 | 484 | 0 | 2 | 8 | 10 |
| 1956 | 0 | 0 | 73 | 73 | 0 | 0 | 5 | 5 |
| 1957 | 133 | – | 157 | 290 | 2 | 0 | 5 | 7 |
| 1958 | 751 | – | 160 | 911 | 3 | – | 5 | 8 |
| 1959 | – | – | 99 | 99 | – | – | 6 | 6 |
| 1960 | 11 | – | 72 | 83 | 1 | – | 4 | 5 |
| 1961 | 2 | – | 1,153 | 1,155 | 1 | – | 10 | 11 |
| 1962 | 24 | 0 | 723 | 747 | 1 | 0 | 15 | 16 |

SOURCE: Canada Labour Relations Board

# Appendix L

## SINGLE EMPLOYER BARGAINING ON AN INTERPROVINCIAL LEVEL
(Agreements covering 500 or more Employees excluding those in the Construction Industry)

| *Company Name* | *Union* | *Number of Employees* | *Agreement Expiry Date* | *Location* |
|---|---|---|---|---|
| CBC | Broadcast Employees (NABET) | 1,400 | Mar. 31, 1963 | Canada-wide |
| CBC | Radio & T.V. Employees (A.R.T.E.C.) | 2,134 | Mar. 31, 1963 | Canada-wide |
| Soo-Security Motorways | Teamsters, Local 979 | 530 | Oct. 31, 1963 | Ont., Man., Sask., Alta. |
| Bell Telephone Co. (Craft & Serv.) | Can. Tel. Employees' Assn. – (Ind.) | 10,000 | Nov. 30, 1963 | Que., Ont. |
| Bell Telephone Co. (Traffic Oper.) | Traffic Employees' Assn. – (Ind.) | 8,300 | Nov. 24, 1963 | Que., Ont. |
| Bell Telephone Co. (Clerical) | Can. Tel. Employees' Assn. – (Ind.) | 8,200 | Nov. 30, 1963 | Que., Ont. |
| Bell Telephone Co. (Sales Empl.) | Can. Tel. Employees' Assn. | 500 | Nov. 30, 1963 | Que., Ont. |
| CNR (Conductors, baggagemen) | Bro. of Railroad Trainmen | 9,650 | Dec. 31, 1963 | Canada-wide |
| CPR (Conductors, baggagemen) | Bro. of Railroad Trainmen | 6,100 | Dec. 31, 1963 | Canada-wide |
| St. Lawrence Seaway Authority | Can. Bro. of Rly., Transport & General Workers | 1,000 | Dec. 31, 1963 | Que., Ont. |
| CBC | Moving Picture Machine Operators | 1,511 | Dec. 31, 1963 | Canada-wide |
| CPR (Dining Car Employees) | Bro. of Railroad Trainmen | 750 | May 31, 1964 | Canada-wide |
| CPR(Firemen) | Bro. of Locomotive Firemen & Engineers | 2,850 | Jun. 30, 1964 | Canada-wide |
| CNR | Bro. of Locomotive Firemen & Engineers | 3,100 | Mar. 31, 1964 | Canada-wide |
| CPR | Bro. of Locomotive Engineers | 1,920 | Mar. 15, 1964 | Canada-wide |
| CNR | Bro. of Locomotive Engineers | 3,500 | Apr. 30, 1964 | Canada-wide |
| Continental Can Co. Canada | United Steelworkers of America | 962 | Sep. 30, 1964 | Ont., B.C. |
| TCA | International Assn. of Machinists | 4,000 | Jun. 30, 1962 | Canada-wide |
| American Can Co. Canada | CLC Chartered Locals 353, 354, 535 | 1,500 | Dec. 31, 1962 | Que., Ont. |
| General Steel Wares & Easy Washing Machines | United Steelworkers of America | 1,900 | Sep. 30, 1964 | Que., Ont. |
| TCA (Flight Attendants) | Can. Air Line Flight Attendants Assn. | 800 | Jul. 31, 1963 | Canada-wide |
| TCA (Sales Dept.) | TCA Sales Employees' Assn. | 1,500 | Aug. 31, 1963 | Canada-wide |
| Iron Ore Co. Canada Ltd. | United Steelworkers of America | 1,970 | Oct. 22, 1962 | Que., Nfld. |
| Canadian International Paper and Subsidiaries | Pulp & Paper Mill Workers, Papermakers | 5,695 | Apr. 30, 1963 | Que., N.B. |
| Abitibi Power & Paper and Subsidiaries | Pulp & Paper Mill Workers, Papermakers, Machinists, IBEW, Operating Engineers | 4,000 | Apr. 30, 1963 | Que., Ont., Man. |
| Imperial Tobacco; National Tobacco; General Cigar; Tuckett Tobacco; B. Houde & Grothe | Tobacco Workers | 3,381 | May 8, 1964 | Canada-wide |
| American Can Co. Canada | CLC Chartered Local | 1,700 | Jan. 31, 1963 | Que., Ont. |
| Burns & Co. (Western) | United Packinghouse, Food and Allied Workers | 1,900 | Mar. 31, 1964 | Man., Sask., Alta., B.C. |
| Canada Cement Co. (Production and Maintenance Employees) | Cement Workers – Various Locals | 1,300 | Jul. 1, 1963 | N.B., Que., Ont., Man., Alta. |
| Canada Packers Ltd. | United Packinghouse, Food and Allied Workers | 4,900 | Mar. 31, 1964 | P.E.I., Que., Ont., Man., Alta., B.C. |
| House of Seagram | Distillery Workers | 1,500 | Sep. 1, 1963 | Que., Ont., B.C. |
| Swift Canadian Co. | United Packinghouse, Food and Allied Workers | 2,800 | Mar. 31, 1964 | N.B., Ont., Man., Alta., B.C. |
| Canada Steamship Lines (Freight Handlers) | Railway Clerks | 900 | Apr. 15, 1963 | Ont., Que. |
| Northern Electric Co. | Northern Electric Employee Assn. | 7,083 | Feb. 25, 1963 | Que., Ont. |
| | **Total All Employees** | 109,236 | | |

SOURCE: Canada Department of Labour, Economics and Research Branch.

# Appendix M

## MULTI-EMPLOYER AND ASSOCIATION BARGAINING ON AN INTERPROVINCIAL LEVEL

(Agreements covering 500 or more Employees excluding those in the Construction Industry)

| *Company Name* | *Union* | *Number of Employees* | *Agreement Expiry Date* | *Location* |
|---|---|---|---|---|
| Coal Operators Assn. of Western Canada | United Miner Workers of America – (Ind.) | 1,300 | Jul. 2, 1964 | Alta., B.C. |
| Eastern Canada Newsprint Group:<br>Anglo-Canadian Pulp & Paper<br>St. Lawrence Corporation<br>Bowaters-Mersey Paper<br>St. Lawrence Corporation<br>James MacLaren Co. | Papermakers, Pulp & Paper Mill Workers, IBEW | 4,000 | Apr. 30, 1963 | N.S., Que. |
| CNR, CPR and other Railways | 15 unions (Non-ops.) | 111,000 | Dec. 31, 1963 | Canada-wide |
| Canadian Lithographers Association (43 firms) | Lithographers | 1,247 | Dec. 31, 1962 | Que., Ont. |
| Fur Trade Assn. of Canada | Butcher Workmen | 1,000 | Feb. 1, 1965 | Que., Ont., Man. |
| | **Total All Employees** | 118,547 | | |

SOURCE: Canada Department of Labour, Economics and Research Branch.

# Appendix N

## MULTI-EMPLOYER AND ASSOCIATION BARGAINING IN ONTARIO

(Agreements covering 500 or more Employees excluding those in the Construction Industry)

| *Company Name* | *Union* | *Number of Employees* | *Agreement Expiry Date* | *Location* |
|---|---|---|---|---|
| Council of Printing Industries (40 firms) | International Typographical Union (Hand Compositors) | 1,100 | May 31, 1963 | Toronto |
| The Union Composing Rooms | International Typographical Union (Hand Compositors) | 1,200 | May 31, 1963 | Toronto |
| Dress Mfrs. Guild of Toronto (34 firms) | Ladies Garment Workers – Joint Board Dressmakers Union | 1,000 | Jul. 31, 1963 | Toronto |
| Dress Mfrs. Guild of Toronto (Sportswear Mfrs. Div.) (19 firms) | Ladies Garment Workers | 1,375 | Dec. 31, 1963 | Toronto |
| Hotels & Taverns (Various) (Tapmen, Bartenders & Bar Waiters) | Hotel Employees | 800 | Jun. 30, 1962 | Toronto |
| Lakehead Terminal Elevators (Various Firms) | Railway Clerks | 1,200 | Dec. 31, 1964 | Fort William & Port Arthur |
| Motor Transport Ind. Rel. Bureau (9 firms) | Teamsters | 700 | Nov. 15, 1965 | Northern Ontario |
| Eastern Car Stevedoring Co. Culler Stevedoring Co. & Pittson Stevedoring Corp. | ILA | 500 | Dec. 31, 1962 | Toronto |
| Canadian Acme Screw & Gear; Monroe Acme; Machine Co. | Auto Workers | 8,000 | Nov. 15, 1964 | Toronto & Galt |
| Council of Printing Industries (68 firms) | Printing Pressmen | 825 | Nov. 30, 1962 | Toronto |
| Men's Clothing Mfrs. Assn. of Ontario (23 firms) | Amalgamated Clothing Workers | 3,500 | Jun. 30, 1962 | Toronto & Hamilton |
| Associated Fur Industries (76 firms) | Butcher Workmen | 600 | Apr. 30, 1963 | Toronto |
| Spruce Falls Power & Paper Co. & Kimberly-Clark Pulp & Paper Co. | Carpenters (Lumber & Sawmill Workers) | 1,800 | Aug. 31, 1962 | Kapuskasing & Long Lac |
| Motor Transport Industrial Relations Bureau (50 firms) Drivers, etc. | Teamsters – Various Locals | 8,000 | Sep. 30, 1965 | Province-wide |
| Motor Transport Ind. Rel. Bureau (50 firms) Mechanics | Teamsters – Various Locals | 800 | May 31, 1965 | Province-wide |
| Toronto Clock Mfrs. Assn. (38 firms) | Ladies Garment Workers | 1,400 | Jun. 30, 1964 | Toronto |
| Spruce Falls Power & Paper Co. & Kimberly-Clark Canada | Papermakers, Pulp & Paper Mill Workers | 1,167 | Apr. 30, 1964 | Kapuskasing |
| Bindery Rooms Printing (29 firms) | International Bro. of Bookbinders | 1,300 | Jan. 10, 1964 | Toronto |
| Canadian Breweries: Carling Breweries; Dow Brewery; Molson's Brewery; O'Keefe Brewing Co.; Brewers Warehousing Co.; Canadian Breweries Transport | Brewery Workers | 3,000 | Aug. 1965 | Province-wide |
| General Motors of Canada Ltd.; General Motors Products of Canada Ltd.; The McKinnon Industries Ltd.; Frigidaire Products of Canada Ltd.; General Motors Diesels Ltd. (Hourly-rated plant employees) | UAW – Various Locals | 16,000 | Oct. 31, 1964 | Oshawa, St. Catharines, Scarboro & London |
| Ready Mix Companies (6 firms) | Teamsters Local 230 | 700 | Mar. 31, 1964 | Metro-Toronto |
| Toronto Dairies (13 dairies) | Teamsters Local 647 | 1,425 | Dec. 31, 1963 | Toronto |
| Toronto Upholstered Furniture Mfg. Association, Inc. (7 firms) | Upholsterers' International Union of North America | 237 | Sep. 15, 1963 | Toronto |
| | **Total All Employees** | 56,629 | | |

SOURCE: Canada Department of Labour, Economics and Research Branch.

# Appendix O

## SINGLE EMPLOYER MULTI-PLANT BARGAINING IN ONTARIO
(Agreements covering 500 or more Employees excluding those in the Construction Industry)

| *Company Name* | *Union* | *Number of Employees* | *Agreement Expiry Date* | *Location* |
|---|---|---|---|---|
| Dominion Stores (Managers and Clerks) | Retail, Wholesale Employees Local 414 | 1,475 | Oct. 31, 1963 | Toronto & other points |
| Hamilton General Hospitals | Public Employees Local 794 | 1,350 | Jan. 31, 1964 | 3 locations |
| Cluett, Peabody & Co. of Can. Cluett, Peabody (Pyjamas, etc.) | Amalgamated Clothing Workers | 725 | Mar. 31, 1964 | Kitchener & Stratford |
| Hydro-Electric Power Comm. of Ontario | Public Service Employees Local 1000 | 9,600 | Mar. 31, 1964 | Company-wide |
| Dominion Stores (Managers and Clerks) | Retail, Wholesale Employees Local 414 | 542 | Apr. 30, 1964 | Hamilton & other points |
| Ford Motor Co. | Auto Workers – Various Locals | 7,200 | Dec. 1, 1964 | Windsor, North York, Oakville & Crowland |
| John Inglis Co. | Steelworkers Locals 2900 and 4790 | 1,650 | Mar. 31, 1965 | Toronto & Scarborough |
| Atomic Energy of Canada | Atomic Energy Allied Council – Various Unions | 900 | Mar. 31, 1963 | Chalk River & Deep River |
| Ontario-Minnesota Pulp & Paper Co. | Pulp & Paper Mill Workers Locals 92 and 133 | 1,250 | Apr. 30, 1963 | Fort Frances & Kenora |
| Consumers' Gas Co. | Chemical Workers Local 161 | 790 | Jul. 7, 1965 | Toronto, Peterboro & Brockville |
| Dominion Rubber Co. (Footwear and General Prod., Warehouse) | Rubber Workers Local 67 | 739 | May 1, 1963 | Kitchener & Guelph |
| B. F. Goodrich Canada | Rubber Workers Local 73 | 900 | May 31, 1963 | Kitchener & Waterloo |
| Power Super Markets | Butcher Workmen | 700 | Apr. 30, 1964 | Province-wide |
| John Forsyth Ltd. | Amalgamated Clothing Workers | 450 | Aug. 18, 1961 | Kitchener & Waterloo |
| Hendrie & Co. Ltd. (Trucking) | Can. Bro. of Railway Transport General Workers | 300 | Dec. 31, 1963 | Toronto, Oakville Windsor, Hamilton, St. Catharines & St. Thomas |
| Thompson Products Ltd. | Thompson Products Employees Assn. | 561 | Nov. 1, 1962 | St. Catharines & Grantham |
| | **Total All Employees** | 29,132 | | |

SOURCE: Canada Department of Labour, Economics and Research Branch.

# Appendix P

## MULTI-EMPLOYER AND ASSOCIATION BARGAINING IN QUEBEC

(Agreements covering 500 or more Employees excluding those in the Construction Industry)

| *Company Name* | *Union* | *Number of Employees* | *Agreement Expiry Date* | *Location* |
|---|---|---|---|---|
| Asbestos Corp. Ltd. Johnson's | Mining Employees' Federation | 2,623 | Dec. 31, 1964 | Asbestos, Flint Gate, & Thetford Mines |
| St-Jean de Dieu & Ste-Thérèse; Notre-Dame de Lourdes; Général de Verdun; Christ-Roi; Sacré-Coeur; St-Joseph; Ste-Jeanne d Arc; Hôtel-Dieu; Notre-Dame de l Espérance; St-Luc; Pasteur; Notre-Dame | Service Employees' Federation | 4,267 | Dec. 31, 1961 | Montreal & District |
| Sanatorium Cooke; Ste-Marie; St-Joseph; Ville-Joie; St-Dominique; (Non-Professional) | Service Employees' Federation | 500 | Dec. 31, 1962 | Trois-Rivières |
| Clothing Mfrs. Assn. | Clothing Workers' Federation | 1,229 | Jun. 30, 1962 | Farnham, Quebec & Victoriaville |
| Shirt Manufacturers (Various) | Clothing Workers' Federation | 1,500 | May 1965 | Arthabaska, Montreal, Shawinigan & St-Hyacinthe |
| Mfrs. Council of Ladies' Cloak & Suit Industry (67 firms) | Ladies Garment Workers | 2,500 | Jun. 30, 1964 | Montreal |
| Assn. of Millinery Mfrs. | Hatters Local 49 | 1,500 | Feb. 15, 1963 | Montreal |
| Assn. des Marchands Détaillants (Produits Alimentaires) | Commerce Employees' Federation | 1,500 | Feb. 28, 1963 | Quebec |
| Assn. des Marchands Détaillants | Metal Trades' Federation | 700 | Dec. 31, 1962 | Quebec & District |
| Employing Printers' Assn. (19 firms) (Printing Pressroom Employees) | Printing Pressmen Local 52 | 600 | Apr. 30, 1963 | Montreal |
| Employing Printers' Assn. (Bindery Employees) | Book Binders Local 91 | 550 | Apr. 30, 1963 | Montreal |
| Assn. Patronale des Services Hospitaliers (5 Hospitals) | Service Employees' Federation | 540 | Oct. 1, 1963 | Drummondville & other points |
| Assn. Patronale des Services Hospitaliers (Non-Prof.) (male) | Service Employees' Federation | 1,600 | Jun. 30, 1963 | Quebec & District |
| Commission des Écoles Catholiques | Public Service Employees Federation | 1,360 | Jun. 30, 1963 | Montreal |
| Montreal Dress & Sportswear Mfrs. Guild (222 firms) | Ladies Garment Workers | 12,000 | Jul. 31, 1963 | Montreal |
| Belt Mfrs. Assn. of Montreal | Ladies Garment Workers | 500 | Aug. 31, 1963 | Montreal |
| Assn. Patronale de Mfrs. de Chaussures; Gale Shoes; J. E. Sampson; Albert Laliberté Ltée; Ludger Duchaine; Faber Shoes; John Ritchie Co.; Country Lake Shoe Corp. | Leather and Shoe Workers' Federation | 1,326 | Dec. 31, 1963 | Quebec |
| Handbag Mfrs. Council | Leather and Plastic Workers | 650 | Dec. 31, 1963 | Montreal |
| Fur Mfrs. Guild | Butcher Workmen | 1,500 | Apr. 30, 1965 | Montreal |
| Kingsway Transport; Smith Transport and others | Teamsters Local 106 – (Ind.) | 1,500 | Sep. 30, 1965 | Montreal & other points |
| Assorted Clothing Mfrs. of Prov. of Quebec (12 firms) | Amalgamated Clothing Workers | 940 | Jun. 30, 1964 | Montreal & Quebec |

## Appendix P—*Concluded*

| *Company Name* | *Union* | *Number of Employees* | *Agreement Expiry Date* | *Location* |
|---|---|---|---|---|
| Assn. Patronale des Inst. Religieuses et des Fabriques Paroissiales du Diocèse de St-Hyacinthe (5 Hospitals) (Non-Professional) | Service Employees' Federation | 800 | Dec. 31, 1963 | St-Hyacinthe Diocese |
| Canadian Glove Mfrs. Assn. (9 firms) | Clothing Workers' Federation | 500 | Feb. 29, 1964 | Montreal, St-Raymond, Loretteville & St-Tite |
| Assn. Patronale du Commerce de Québec (Hardware Store Employers) | Commerce Employees' Federation | 1,800 | Mar. 16, 1964 | Quebec |
| Trucking Assn. of Quebec (24 firms) | Teamsters Local 931 | 1,100 | Sep. 30, 1964 | Province-wide |
| | **Total All Employees** | 43,585 | | |

SOURCE: Canada Department of Labour, Economics and Research Branch.

# Appendix Q

## SINGLE EMPLOYER MULTI-PLANT BARGAINING IN QUEBEC

(Agreements covering 500 or more Employees excluding those in the Construction Industry)

| *Company Name* | *Union* | *Number of Employees* | *Agreement Expiry Date* | *Location* |
|---|---|---|---|---|
| Quebec North Shore Paper Co. | Carpenters (Lumber & Sawmill Workers) | 2,143 | Feb. 28, 1963 | Baie Comeau, Franquelin & Shelter Bay |
| Domtar Pulp & Paper (St. Lawrence Corp.) | Papermakers, Pulp & Paper Mill Workers | 1,200 | May 1961 | Trois-Rivières & Dolbeau |
| Quebec Natural Gas | Chemical Workers | 650 | Feb. 1961 | Company-wide |
| Quebec Hydro (Outside Empls.) | Public Service Employees Federation | 900 | May 1964 | Montreal |
| Rolland Paper | Papermakers, Pulp & Paper Mill Workers | 650 | Sep. 1963 | Mont Rolland & St-Jérome |
| Aluminum Co. of Canada | Assn. Can. des Ouvriers de l'Aluminium | 195 | Jul. 9, 1964 | Beauharnois |
| Aluminum Co. of Canada | Metal Trades' Federation | 900 | May 28, 1964 | Isle Maligne |
| Aluminum Co. of Canada | Metal Trades' Federation | 5,500 | May 7, 1964 | Arvida |
| Aluminum Co. of Canada | Metal Trades' Federation | 700 | Jun. 18, 1964 | Shawinigan |
| Quebec Cartier Mining Co. | Steelworkers Local 5778 | 1,000 | Apr. 30, 1963 | Lac Jeannine & Port Cartier |
| RCA Victor Co. | Salaried Employees' Association | 600 | May 15, 1963 | Montreal area |
| Dominion Stores | Retail Clerks Local 486 | 1,000 | Aug. 31, 1963 | Montreal vicinity |
| Northern Electric Co. | Northern Electric Employees | 7,083 | Feb. 25, 1963 | Montreal & Belleville |
| Price Bros. & Co. | Pulp & Paper Workers' Federation | 1,206 | Apr 30, 1963 | Kenogami & Riverbend |
| Wabasso Cotton Co. | United Textile Workers | 1,900 | Jun. 1, 1963 | Trois-Rivières, Grand'Mère & Shawinigan |
| Canadian General Electric (Hourly & Salaried Employees) | United Electrical Employees | 1,200 | Mar. 5, 1964 | Montreal & Quebec |
| Consolidated Paper Corp. | Papermakers, Pulp & Paper Mill Workers | 1,200 | Apr. 30, 1963 | Cap-de-la-Madeleine & Trois-Rivières |
| RCA Victor Co. | IUE Local 513 | 650 | Mar. 29, 1964 | Montreal, St-Laurent & Town of Mount-Royal |
| Shawinigan Water & Power Co. | Public Service Employees' Federation | 1,250 | Oct. 31, 1963 | Province-wide |
| Dominion Textile Co. | Textile Federation (embraces several unions) | 4,400 | Feb. 1, 1964 | Montmorency, Sherbrooke, Magog & Drummond-ville |
| Steinberg's Ltd. | Steinberg's Warehouse Transp. Employees Association | 700 | Mar. 14, 1963 | Montreal |
| Steinberg's Ltd. | Employees' Protective Association | 2,400 | Mar. 20, 1965 | Montreal |
| Price Bros. & Co. | Bush Workers, Farmers' Union | 1,800 | Apr. 15, 1962 | Dolbeau, Kenogami & Shipshaw |
| Dow Brewery Ltd. | International Union of United Brewery, Flour, Cereal, Soft Drink & Distillery Workers | 775 | Nov. 30, 1964 | Montreal & Quebec |
| Dominion Bridge Co. | Steelworkers Local 2843 | 1,358 | Oct. 26, 1964 | Lachine & Longue Pointe |
| | **Total All Employees** | 41,360 | | |

SOURCE: Canada Department of Labour, Economics and Research Branch.

# Appendix R

SINGLE EMPLOYER MULTI-PLANT BARGAINING IN BRITISH COLUMBIA
(Agreements covering 500 or more Employees excluding those in the Construction Industry)

| *Company Name* | *Union* | *Number of Employees* | *Agreement Expiry Date* | *Location* |
|---|---|---|---|---|
| White Spot Restaurants | Employees' Union – (Ind.) | 625 | May 31, 1963 | Vancouver & Victoria |
| Aluminum Co. of Canada | Steelworkers Local 5115 | 2,000 | Jun. 20, 1963 | Kitimat & Kemano |
| B.C. Hydro & Power Authority | Street Railway Employees Local 101 | 2,000 | Aug. 31, 1964 | Vancouver, Victoria & New Westminster |
| Canadian Canners | Packinghouse Workers Locals 333 and 350 | 800 | Dec. 31, 1964 | Vancouver & Penticton |
| B.C. Hydro & Power Authority | IBEW Locals 230, 821, 993 | 600 | Mar. 31, 1963 | Kamloops, Vernon & Victoria |
| B.C. Hydro & Power | IBEW Locals 213 and 230 | 734 | Nov. 30, 1962 | Province-wide |
| Kelly, Douglas & Co. | Employees' Association – (Ind.) | 700 | Nov. 30, 1963 | Vancouver & other centres |
| B.C. Hydro & Power Authority (Office Employees) | Office Employees Local 378 | 1,200 | Dec. 31, 1962 | Company-wide, B.C. |
| Consolidated Mining | Mine, Mill & Smelter Workers Locals 651, 480 and 901 | 4,500 | Feb. 29, 1964 | Kimberley & Trail |
| | **Total All Employees** | 13,159 | | |

SOURCE: Canada Department of Labour, Economics and Research Branch.

# Appendix S

## MULTI-EMPLOYER AND ASSOCIATION BARGAINING IN BRITISH COLUMBIA
(Agreements covering 500 or more Employees excluding those in the Construction Industry)

| *Company Name* | *Union* | *Number of Employees* | *Agreement Expiry Date* | *Location* |
|---|---|---|---|---|
| MacMillan, Bloedell & Powell<br>Crown Zellerbach<br>MacMillan, Bloedell & Powell<br>MacMillan, Bloedell & Powell<br>Elk Falls Co.<br>Canadian Forest Products<br>Celgar Ltd.<br>Rayonier Canada<br>Rayonier Canada<br>B.C. Forest Products | Pulp & Paper Local 76<br>Pulp & Paper Local 312<br>Pulp & Paper Local 695<br>Pulp & Paper Local 592<br>Pulp & Paper Local 742<br>Pulp & Paper Local 297<br>Pulp & Paper Local 708<br>Pulp & Paper Local 514<br>Pulp & Paper Local 494<br>Pulp & Paper Local 883 | 5,657 | Jun. 30, 1963 | Powell River,<br>Ocean Falls,<br>Nanaimo,<br>Port Alberni,<br>Duncan Bay,<br>Port Mellon,<br>Watson Island,<br>Port Alice,<br>Woodfibre &<br>Grafton |
| MacMillan, Bloedell & Powell<br>Crown Zellerbach<br>MacMillan, Bloedell & Powell<br>Elk Falls Co. | Papermakers Local 142<br>Papermakers Local 360<br>Papermakers Local 686<br>Papermakers Local 630 | 773 | Jun. 30, 1963 | Powell River,<br>Ocean Falls,<br>Alberni &<br>Duncan Bay |
| Chain & Independent Operators (127) (Food Clerks) | Retail Clerks Local 1518 | 3,800 | Apr. 18, 1964 | Vancouver,<br>Victoria, New<br>Westminster &<br>other localities |
| Fisheries Assn. & Cold Storage Assn. | United Fishermen & Native Brotherhood | 5,500 | Apr. 15, 1963 | B.C. Coast |
| Shipping Federation of B.C. Longshoremen, etc. | Longshoremen and Warehousemen Locals 501, 502, 503, 504, 508, 506, 507, 510 | 1,885 | Jul. 31, 1962 | Various localities |
| Burrard Dry Dock Co.<br>Victoria Machinery Depot<br>Garrows Ltd. | Shipyard Workers Locals 1, 3 and 9<br>IBEW Locals 213 and 230<br>Machinists Local 692<br>International Operating Engineers Locals 115 and 918<br>Painters Locals 138 and 1163<br>Patternmakers<br>Plumbers Locals 170, 324, 516<br>Sheet Metal Workers Locals 276, 280<br>Carpenters Locals 506, 1598<br>Asbestos Workers Local 118<br>Boilermakers Local 191<br>Structural Iron Workers Local 643<br>Labourers Local 1204<br>Molders Local 144 | 1,723 | Oct. 14, 1963 | Vancouver &<br>Victoria |
| Chain & Independent Operators | Butcher Workmen Local 212 | 850 | May 1, 1964 | Vancouver,<br>Victoria &<br>other places |
| Evans, Colemen & Evans & Deck's | Teamsters Local 213 | 900 | Dec. 31, 1964 | McBridge,<br>Vancouver,<br>Draper Valley<br>& other places |
| Automotive Dealer Garages Mechanic & Service Emp. | Machinists Local 1857 | 600 | Mar. 31, 1964 | Vancouver |
| B.C. Hotels Assn. | Hotel Employees Local 28 | 600 | Apr. 30, 1964 | Vancouver |
| Okanagan Federated Shippers Assn. | CLC Chartered Local 1572 | 4,000 | Aug. 31, 1964 | Okanagan Valley |
| B.C. Towboat Owners Assn. (Deck Officers) | Merchant Service Guild | 650 | Sep. 30, 1964 | B.C. Coast |
| Motor Transport Labour Rel. Council (29 firms) | Teamsters Local 31 | 1,200 | Dec. 31, 1964 | Vancouver |
| Northern Interior Lumbermen's Assn. | Woodworkers Local 1–424 | 2,400 | Aug. 31, 1964 | Prince George & area |
| Fraser Valley Milk Producers Assn. and others | Teamsters Local 464 | 850 | Mar. 31, 1963 | Vancouver & New Westminster |

## Appendix S—*Concluded*

| *Company Name* | *Union* | *Number of Employees* | *Agreement Expiry Date* | *Location* |
|---|---|---|---|---|
| B.C. Hotels Assn. (Beverage Dispensers) | Hotel Employees Local 676 | 950 | Dec. 31, 1962 | Vancouver |
| B.C. Hotels Assn. | Hotel Employees Local 835 | 500 | Dec. 31, 1962 | New Westminster, Burnaby & Fraser Valley |
| Fisheries Assn. of B.C. Tendermen | United Fishermen | 600 | Apr. 15, 1963 | B.C. Coast |
| Forest Industrial Relations Logging & Sawmill (150 firms) | Woodworkers – Various Locals | 27,000 | Jun. 14, 1964 | Coast-wide |
| Interior Forest Labour Rel. Assn. (36 firms) | Woodworkers Locals 1–417, 1–423, 1–405 | 4,000 | Aug. 31, 1964 | B.C., southern interior |
| Building Maintenance & Window Cleaning Contractors | Building Service Employees Local 244 | 600 | Jun. 30, 1965 | Vancouver |
| | **Total All Employees** | 65,038 | | |

SOURCE: Canada Department of Labour, Economics and Research Branch.

# Appendix T

MULTI-EMPLOYER AND ASSOCIATION BARGAINING IN MANITOBA
(Agreements covering 500 or more Employees excluding those in the Construction Industry)

| *Company Name* | *Union* | *Number of Employees* | *Agreement Expiry Date* | *Location* |
|---|---|---|---|---|
| Canada Safeway<br>Shop-Easy Stores<br>Loblaw Groceterias<br>National Foodland<br>Dominion Stores | Retail Clerks Local 832 | 1,233 | Oct. 31, 1963 | Winnipeg & Transcona |
| Garment Mfrs. Assn. of Western Canada | Amalgamated Clothing Workers Local 459 | 1,800 | Dec. 15, 1964 | Winnipeg |
| Winnipeg Ladies Cloak & Suit Mfrs. Assn. | Ladies Garment Workers Local 216 | 800 | Dec. 31, 1964 | Winnipeg |
| Carling Breweries (Man.)<br>Labatt's Man. Brewery<br>O'Keefe Brewing Co. (Man.)<br>Pelissier's Brewery<br>Rewel Brewing Co.<br>Fort Garry Brewery | Brewery Workers Local 330 | 500 | May 31, 1962 | Winnipeg & area |
| | **Total All Employees** | 4,333 | | |

SOURCE: Canada Department of Labour, Economics and Research Branch.

# Appendix U

SINGLE EMPLOYER MULTI-PLANT BARGAINING IN MANITOBA
(Agreements covering 500 or more Employees excluding those in the Construction Industry)

| *Company Name* | *Union* | *Number of Employees* | *Agreement Expiry Date* | *Location* |
|---|---|---|---|---|
| Manitoba Telephone System Oper. | IBEW Local 2092 | 975 | Mar. 31, 1963 | Province-wide |
| Manitoba Telephone System | Manitoba Telephone System | 1,380 | Mar. 31, 1963 | Province wide |
| Manitoba Telephone System, Crafts | IBEW Local 435 | 1,000 | Mar. 31, 1963 | Province-wide |
| Manitoba Power Comm. | IBEW Local 2034 | 900 | Mar. 31, 1962 | Province-wide |
| | **Total All Employees** | 4,255 | | |

SOURCE: Canada Department of Labour, Economics and Research Branch.

# Appendix V

## SINGLE EMPLOYER MULTI-PLANT BARGAINING IN NOVA SCOTIA, NEW BRUNSWICK, SASKATCHEWAN, ALBERTA

(Agreements covering 500 or more Employees excluding those in the Construction Industry)

| *Company Name* | *Union* | *Number of Employees* | *Agreement Expiry Date* | *Location* |
|---|---|---|---|---|
| Maritime Tel. & Tel. Co. & Eastern Electric & Supply (Plant Employees) | IBEW Local 1030 | 445 | Dec. 22, 1963 | N.S., province-wide |
| Sask. Government Telephones | Communications Locals 1, 2, 3 | 1,825 | Sep. 30, 1962 | Sask., Moose Jaw & area Saskatoon & Regina |
| N.B. Electric Power Comm. | IBEW Locals 1711, 1713, 1723, 1733, 1734, 1746, 1758 | 488 | Mar. 31, 1963 | N.B., province-wide |
| Sask. Province, Institutions | Public Service Employees Locals 92, 94, 95 and CLC Chartered Local 3 | 965 | Dec. 31, 1962 | Sask., Moose Jaw, Prince Albert & North Battleford |
| Sask. Province, Various Departments and Branches | Government Employees | 1,600 | Mar. 31, 1963 | Sask., province-wide |
| Sask. Province | Sask. Government Employees | 5,000 | Sep. 30, 1962 | Sask., province-wide |
| Maritime Tel. & Tel. Co. (Traffic Employees) | IBEW – Various Locals | 725 | Sep. 23, 1963 | N.S., province-wide |
| Sask. Wheat Pool | Sask. Wheat Pool Employees (CLC) | 980 | Jul. 31, 1964 | Sask., province-wide |
| Fraser Companies | Pulp & Paper Mill Workers Locals 29, 160, 689 | 904 | Jun. 30, 1963 | N.B., Edmundston, Atholville & New Castle |
| Sask. Power Corp. | Oil Workers Local 9–649 | 2,500 | May 31, 1965 | Sask., province-wide |
| Alberta Gov't. Telephones | IBEW Local 348 | 1,150 | Apr. 30, 1963 | Alta., province-wide |
| Canadian Sugar Factories | CLC Chartered Locals 117, 118, 383 | 850 | Jun. 30, 1963 | Alta., Raymond, Picture Butte & Taber |
| Calgary Power & Farm Electric Services (Office & Outside Employees) | Employees Association | 643 | Dec. 31, 1962 | Alta., province-wide |
| | **Total All Employees** | 18,075 | | |

SOURCE: Canada Department of Labour, Economics and Research Branch.

# Appendix W

## MULTI-EMPLOYER AND ASSOCIATION BARGAINING IN ALBERTA AND NEW BRUNSWICK

(Agreements covering 500 or more Employees excluding those in the Construction Industry)

| *Company Name* | *Union* | *Number of Employees* | *Agreement Expiry Date* | *Location* |
|---|---|---|---|---|
| Miramichi Lumber Chatham Industries and Others | Miramichi Trades & Labour | 520 | Dec. 31, 1962 | N.B., Miramichi River Ports |
| Northwestern Utilities & Canadian Western Natural Gas Co. | Empl. Benefit Assn. & Empl. Welfare Assn. | 1,063 | Dec. 31, 1962 | Alta., Edmonton & Calgary |
| | **Total All Employees** | 1,583 | | |

SOURCE: Canada Department of Labour, Economics and Research Branch.

# Appendix X

## MULTI-EMPLOYER CERTIFICATION ORDERS ISSUED BY THE BRITISH COLUMBIA LABOUR RELATIONS BOARD

The certification order issued to Hotel and Restaurant Employees Union, Local No. 28 on February 27th., 1952, covers employees employed at the following firms in the Vancouver area:

| | |
|---|---|
| Ambassador (Van) Ltd. | 773 Seymour St. |
| Austin Hotel (1949) Ltd. | 1221 Granville St. |
| Belmont Hotel Co. Ltd. | 1006 Granville St. |
| Broadway Hotel Co. Ltd. | 101 E. Hastings St. |
| Selkirk (B.C.) Ltd. | 314 Cambie St. |
| Castle Hotel Ltd. | 750 Granville St. |
| Cecil Holdings Ltd. | 1336 Granville St. |
| Dominion Holdings Ltd. | 210 Abbott St. |
| Pacific Western Hotels Ltd. | 801 W. Georgia St. |
| Grandview Hotel Ltd. | 618 W. Cordova St. |
| Invermay Holdings Ltd. | 828 W. Hastings St. |
| Kingston Hotel Ltd. | 757 Richards St. |
| Lotus Hotel (Lee Sing et al) | 445 Abbott St. |
| Manitoba Hotel Ltd. | 50 W. Cordova St. |
| Hotel Marble Arch. Van. Ltd. | 518 Richards St. |
| Marr Hotel (1951) Ltd. | 403 Powell St. |
| New Dodson Hotel Ltd. | 25 E. Hastings St. |
| Niagara Hotel Co. (N. Stoyko) | 435 W. Pender St. |
| Olympic Estates Ltd. | 140 E. 2nd. St., N. Vancouver |
| Palace Hotel Ltd. | 37 W. Hastings St. |
| Patricia Hotel Ltd. | 403 E. Hastings St. |
| Rogers Hotel Ltd. | 412 Carrall St. |
| Regent Hotel Ltd. | 160 E. Hastings St. |
| Royal Holdings Ltd. | 1025 Granville St. |
| Ritz Apartments Ltd. | 1040 W. Georgia St. |
| St. Regis Hotel (1944) Ltd. | 602 Dunsmuir St. |
| Mills Holdings Ltd. | 1489 E. Hastings St. |
| Motel West Ltd. | 444 Carrall St. |
| York Vancouver Ltd. | 790 Howe St. |
| Midvan Hotel Ltd. | 712 Richard St. |

The certification order issued to the Milk Wagon Drivers' and Dairy Employees' Union, Local No. 464, on January 15th., 1954, covers employees employed at the following firms in Vancouver:

| | |
|---|---|
| Central Creameries (B.C.) Ltd. | 325 Railway St. |
| Palm Dairies Ltd., Ice Cream Division | 3333 Main St. |
| Hazelwood Creamery Ltd. | 441 Keefer St. |
| Peters Ice Cream Co. Ltd. | 3204 West Broadway |
| Fraser Valley Milk Producers Assn. Arctic Ice Cream Div. | 1166 Hornby St. |

The certification order issued to Hotel and Restaurant Employees' Union, Local No. 28, on April 27th., 1950, covers employees employed at the following firms, in the places listed opposite each employer's name:

| | | |
|---|---|---|
| H. W. Jones | Panda Bar | Westview |
| Norman Gold | Fiesta Grill | Westview |
| Mrs. G. Mantoani & Alio Mantoani | Elks Grill | Powell River |
| S. E. Cameron | Westview Cafe | Westview |
| L. M. Palliser & O. Ennis | Travellers Hotel & Lajon Grill | Westview |
| Hotel Rodmay Limited | Hotel Rodmay Limited | Powell River |
| Andy Yip | Powell River Cafeteria | Powell River |
| Mrs. G. Mantoani & Alio Mantoani | Coffee Shop at Rodmay Hotel | Powell River |

The certification order issued to The General Truck Drivers and Helpers Union, Local No. 31, on October 25th., 1952, covers employees employed at the following firms:

| | |
|---|---|
| Arrow Transfer Co. Ltd. | Vancouver |
| B.C. District Telegraph & Delivery | " |
| B.C. Seattle Transport Div. of Los Angeles Seattle Motor Express Inc. | " |
| Bekins Moving & Storage Co. Ltd. | " |
| Belyea and Company Ltd. | New Westminster |
| Black Motor Freight | Vancouver |
| Bowman Cartage & Storage Limited | " |
| Bruce Motor Cartage Limited | " |
| Burrard Cartage Company Limited | " |
| Commercial Truck Company Limited | New Westminster |
| Cottrell Cartage Limited | Vancouver |
| Country Freight Lines Ltd. | " |
| Crawford Storage Limited | " |
| Crown Cartage & Warehousing Company Limited | " |
| Eagle Time Delivery System Company Limited | " |
| Ferguson's Transport Company | " |
| Houlden Transfer Limited | North Vancouver |
| Johnston Terminals Limited | Vancouver |
| McIntosh Cartage Co. Ltd. | " |
| Mainland Transfer Company Limited | " |
| Merchants' Cartage Company Limited | " |
| Pacific Cartage Limited | " |
| Petrio Storage Limited | " |
| Richmond Transfer | " |
| Service Messenger Company Limited | " |
| 300 Transfer Company | " |
| Wells Cartage Limited | " |
| Westminster Storage & Distributing Company Limited | New Westminster |

The certification order issued to the Beverage Dispensers Union, Local No. 676 of the Hotel and Restaurant Employees and Bartenders International Union, on August 30th., 1949, covers employees employed at the following firms in the Vancouver area:

Abbotsford Hotel Co. Ltd.
Ambassador Beer Parlor (Scottish Hotels Ltd.)
American Hotel Ltd.
Anchor & Brockton Investments Ltd.
Angelus Holding Co. Ltd.
Astoria Hotels Ltd.
Austin Hotel Co.
Balmoral Beer Parlor (Vintners Ltd.)
Belmont Hotel Co. Ltd.
Broadway Hotel Co. Ltd.
Burrard Hotel (1944) Ltd.
Carlton Hotel Co. Ltd.
Castle Hotel Ltd.
Cecil Holdings Ltd.
Clarence (Jackson Hotel Co. Ltd.)
Cobalt Hotel Co. Ltd.
Columbia Hotel Co. Ltd.
Commercial Hotel Ltd.
Devonshire Ltd.
Dodson Hotel Co. Ltd.
Dominion (Fortin Enterprises Ltd.)
Dufferin Beer Parlor (Smythe Hotels Ltd.)
Empire (B.C. Hotels Ltd.)
Manitoba Hotel Ltd.
Marble Arch Beer Parlor
Main Hotel Ltd. (Van P Hotel Ltd.)
Martin (Marshall Hotel Co. Ltd.)
Melbourne Hotel Ltd.
Metropole Holdings Ltd.
Marr Hotel Ltd.
New Fountain Hotel (1945) Ltd.
Niagara Hotel
Olympic Estates Ltd.
Palace Hotel (1938) Ltd.
Patricia Hotel Ltd.
Pennsylvania Beer Parlor (Western Hotels Ltd.)
Piccadilly Hotel Beer Parlor (Pender Hotel Ltd.)
Princeton Hotel (1945) Ltd.
Rainier Hotel Ltd.
Regent Hotel Ltd.
Royal Beer Parlor (Plaza Hotel Co. Ltd.)
Savoy Hotel Ltd.
St. Alice Hotel
St. Helens Hotel Co. Ltd.
St. Regis Hotel (1944) Ltd.
Stanley Hotel Ltd.

Empress Hotel Co.
Europe Hotel Ltd.
Georgia Concession Ltd.
Grand Union Hotel Ltd.
Haddon Hotel Co. Ltd.
Invermay Hotel (1945) Ltd.
Hotel Ivanhoe
Kingston Hotel Co. Ltd.
London Hotel Co. Ltd.
Lotus (Lions Hotel Co. Ltd.)
Steveston Hotel Ltd., Steveston
Strand Hotel Ltd.
Stratford Hotel
Travellers Hotel Ltd.
Hotel West Ltd.
Waldorf (formerly Mt. View) Hotel Co. Ltd.
Yale Hotel (1935) Ltd.
York Hotel (1946) Ltd.

Multi-Employer Certification order issued to the Milk Wagon Drivers' and Dairy Employees' Union, Local No. 464, on January 15th, 1954, covers employees employed at the following firms:

| | |
|---|---|
| Richmond Milk Producers Co-Operative Asociation | Vancouver |
| Fraser Farms Ltd. | Sea Island |
| Palm Dairies Ltd. | Vancouver |
| Guernsey Breeders' Dairy Ltd. | " |
| Jersey Farms Ltd. | " |
| Royal City Dairies Ltd. | New Westminster |
| Creamland Crescent and Empress Dairies Ltd. | Vancouver |
| Drakes Dairy Ltd. | New Westminster |
| Glenburn Dairy Ltd. | Vancouver |
| Fraser Valley Milk Producers Association | " |
| Fraser Valley Milk Producers Association, Dairyland Division | " |

The certification order issued to the Hotel and Restaurant Employees and Bartenders International Union, Local No. 619, on January 4th., 1949, covers employees employed at the following firms, in Nanaimo:

Lotus Hotel Limited
John Tonzetich
Nat and James Bevis (Partners)
Mrs. L. Mottishaw
Newcastle Hotel Company Limited
H. McVicker and Vincent Crawley (Partners)
Queen's Hotel (1947) Limited
D. Kulai
Plaza Hotel (Nanaimo) Limited
Albert L. Watson
J. Clovis and Mrs. P. Clovis (Partners)
Crescent Hotel Company Limited
Commercial Hotel (Nanaimo) Limited

The certification order issued to the Hotel and Restaurant Employees and Bartenders International Union, Local No. 619, on January 4th., 1949, covers employees employed at the following firms, in Ladysmith:

Mr. and Mrs. J. Kopale
Canadian Legion of the British Empire Services League
M. H. Doumont and J. Jiovanda (Partners)
D. S. Dunn and S. Dunn (Partners)

The certification order issued to the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local No. 170, on September 20th., 1950, covers employees employed at the following firms, in Vancouver:

Barr & Anderson Automatic Sprinkler Co. Ltd.
Whittick's Mechanical Construction
Leek & Company Ltd. (Sprinkler Div.)
Grinnell Company of Canada Limited
Viking Automatic Sprinkler Co. (B.C.) Ltd.

The certification order issued to Local 170 of United Association of Journeymen and Apprentices of Plumbing and Pipefitting Industry of the United States and Canada, on August 4th., 1950, covers employees employed at the following firms:

| | |
|---|---|
| Acme Plumbing & Heating Service | Vancouver |
| Barr and Anderson Limited | " |
| B. Hoe Limited | " |
| B. C. Plumbing and Heating | " |
| Ben's Plumbing | " |
| Stan Code | " |
| H. S. Crombie Limited | " |
| Dr. Brincat Plumbing & Sheet Metal Limited | " |
| Dillabough Plumbing Co. Limited | " |
| F. Errington Limited | " |
| Frank Fenk | " |
| Filbey's Plumbing and Heating | " |
| Fourth Avenue Heating and Plumbing | " |
| General Plumbing and Heating Co. Ltd. | " |
| Gosse Plumbing and Heating | " |
| F. N. Hamilton | " |
| Hodgson Limited | " |
| Irvine & Reeves Plumbing and Heating Ltd. | " |
| Gordon Latham Limited | " |
| Leek and Company Limited | " |
| Lockerbie and Hole (B.C.) Limited | " |
| Mallory Plumbing and Heating | New Westminster |
| H. E. McConaghy Limited | Vancouver |
| D. A. McDonald Company Limited | " |
| Mitchell Brothers Limited | " |
| H. C. Orre and Son | " |
| San-O-Heat Limited | " |
| Vancouver Pipe Works Limited | " |
| Weeks & Company Limited | " |
| Fred Welsh and Son | " |
| Geo. J. Wilkie Limited | " |
| A. H. Bourdon Plumbing and Heating | " |
| Dukes and Bradshaw | North Vancouver |
| Hollyburn Plumbing and Heating Company | West Vancouver |
| Johnson Temperature Regulating Co. of Canada Ltd. | Vancouver |
| Keith Plumbing and Heating Co. Ltd. | North Vancouver |
| Kitsilano General Repair and Hardware | Vancouver |
| Page and Harper | " |
| H. W. Scott Plumbing and Heating | " |
| Vancouver Plumbing Company | " |
| Henry Wilson Plumbing | " |
| Minneapolis-Honeywell Regulator Co. Ltd. | " |

The certification order issued to the Milk Wagon Drivers and Dairy Employees Union, Local No. 464, on November 12th., 1952, covers employees employed at the following firms:

| | |
|---|---|
| Northwestern Creamery Limited | Victoria |
| Island Farms Dairies Co-Operative Assn. | " |
| Palm Dairies Limited | " |

The certification order issued to the Fruit and Vegetable Workers' Unions, Locals Nos. 1, 2, 3, 4, 5, 6, 8, 9 and 11, on July 24th., 1952, covers employees employed at the following firms:

| | |
|---|---|
| British Columbia Fruit Shippers Limited | Vernon, Oyana, Oliver |
| B.C. Orchards Co-Operative Association | Kelowna |
| Cascade Co-Operative Union | Kelowna |
| Dolph Browne Limited | Vernon |

| | |
|---|---|
| Haynes Co-Operative Growers Exchange | Oliver |
| A. T. Howe Orchards Limited | Vernon |
| Kaleden Co-Operative Growers Association | Kaleden |
| Kelowna Growers Exchange | Kelowna, Rutland |
| Keremeos Growers Co-Operative Association | Keremeos |
| R. H. MacDonald & Sons Limited | Vernon |
| McLean and Fitzpatrick Limited | Oliver, Osoyoos |
| Monachee Co-Operative Growers Assn. | Osoyoos |
| Naramata Co-Operative Growers Exchange | Naramata |
| Okanagan Packers Co-Operative Union | Kelowna |
| Oliver Co-Operative Growers Exchange | Oliver |
| Osoyoos Co-Operative Fruit & Vegetable Growers Assn. | Osoyoos |
| Penticton Co-Operative Growers | Penticton |
| Pyramid Co-Operative Association | Penticton |
| Southern Co-Operative Exchange | Oliver |
| United Co-Operative Growers Assn. | Penticton |
| Unity Fruit Limited | Vernon |
| The Vernon Fruit Union | Vernon, Oyana, Winfield, Woodsdale |
| Winoka Co-Operative Exchange | Okanagan Centre |

The certification order issued to the United Brotherhood of Carpenters and Joiners of America, Local No. 1540, on February 6th, 1953, covers employees employed at the following firms:

| | |
|---|---|
| Taylor & Son | Kamloops |
| S. L. Edgar | " |
| H. Kleefield | " |
| Mannix Ltd. | Vancouver |
| R. W. Bregoliss | Kamloops |
| Emil Anderson Construction Co. Ltd. | Hope |
| W. Leonard (Kamloops Cabinet Shop) | Kamloops |
| Wilson & Dalgleish Contracting Co. Ltd. | " |
| H. Matter | " |
| P. Slivorsky (Western Builders and Contractors) | " |

# Appendix Y

P.C. 1768

PRIVY COUNCIL

CANADA

The Committee of the Privy Council have had before them a Memorandum, dated 15th July, 1918, from the Minister of Railways and Canals, stating that representations have been made by the Organization of Railway Employees for an increase in the scale of Railway wages of the employees engaged on the Intercolonial Railway, Transcontinental Railway and Prince Edward Island Railway and that similar demands have been made on other Railway Companies in Canada. That the attached letter from the Chairman of the Railway Commission has been received by the Acting Premier, and referred by him to the Minister of Railways and Canals, from which letter it appears that the extra amount of wages which the three larger systems, that is to say, Canadian Pacific, Grand Trunk and the Canadian Northern, would be called upon to pay, should the same rate of wages be adopted in Canada as is now in force in the United States amounts to the sum of $36,865,494 while on the Government Lines the increase would amount to $5,600,000 and it further appears that the Railway Companies are of the view that the wages paid railway employees in Canada ought to be the same as that adopted in corresponding territories in the United States, as the class of work is the same in both countries. That there is a large interchange of traffic, and that as a result, many employees work in both countries; and on the further grounds that different organizations are international in their scope, and that heretofore the wage scale in both countries has been relatively the same.

That in view of the increased cost of living, wages in Canadian territory should be increased as increased in American territory, by the Award commonly known as the "McAdoo" award, as the same may be from time to time amended or extended, in so far as the Government Railways Systems are concerned, and that it is advisable in the public interest that companies, privately owned, should make similar increases to their employees.

That the net earnings of the railway systems as a result of increased costs of transportation, which has already accrued, have greatly decreased. That the net earnings of the Grand Trunk in 1917 decreased to £26,279, as against £1,202,281 in 1916, and the deficit of the Canadian Northern largely increased, while the Canadian Pacific net earnings in the first six months of the present year decreased some $7,000,000 while the increased scale of wages as contemplated will cost that company alone $15,000,000 over and above its present costs. That in order to enable the railways of Canada to meet the increased wage charges which they will be obliged to pay by reason of the increases herein before referred to, the Minister of Railways and Canals believes that similar action ought to be taken in Canada as taken under similar circumstances in the United States, and freight rates be raised in Canada as such rates have been raised in adjacent United States territory.

The Minister recommends, under the authority of the War Measures Act:

(1) That the scale of wages of railway employees as fixed by the "McAdoo" award in United States territory, including any amendments or extensions thereof, be applied in Canadian territory insofar as all lines of a railway owned, operated or controlled by the Government, are concerned.

(2) That the wage scales of privately owned railway companies in Canada should be similarly advanced.

(3) That increases be made in the freight rates of all Canadian Railway carriers, subject to the jurisdiction of Parliament, as have been made in the rates of American carriers by the Interstate Commerce Commission, and under orders of the Director General of Railway Administration of the United States.

(4) That on the acceptance by the Canadian Pacific, Grand Trunk, Canadian Northern and other railway companies of the said "McAdoo" schedule, the Board of Railway Commissioners be required to forthwith prepare a schedule of rates which will grant similar increases in railway freight rates in Canada to the increases already granted in American territory, effective as of August 1st., 1918.

The Committee concur in the foregoing recommendation, and submit the same for approval.

Approved by Governor General
16th. July 1918

Rodolphe Boudreau,
*Clerk of the Privy Council*

# Appendix AA

ANALYSIS OF DISPOSITION OF APPLICATIONS FOR CERTIFICATION RECEIVED BY WARTIME LABOUR RELATIONS BOARD (NATIONAL), MARCH 20, 1944 TO AUGUST 31, 1948*

| *Year* | *Certification Granted by Board* | *Applications Referred to Provincial Boards* | *Applications Rejected* | *Applications Withdrawn* |
|---|---|---|---|---|
| 1944 | 85 | 23 | 23 | 31 |
| 1945 | 104 | 1 | 14 | 12 |
| 1946 | 75 | 1 | 19 | 31 |
| 1947 | 92 | – | 46 | 57 |
| 1948 | 32 | – | 34 | 9 |
| **Totals** | 388 | 25 | 136 | 140 |

Source: Dominion of Canada Report of the Department of Labour for the fiscal year ending March 31, 1949, p. 28.

*Eleven applications pending on August 31, 1948, were decided subsequently by the Canada Labour Relations Board.

# Appendix AB

ANALYSIS OF CERTIFICATION PROCEEDINGS UNDER THE INDUSTRIAL RELATIONS AND DISPUTES INVESTIGATION ACT, BY DISPOSITION OF APPLICATIONS SEPTEMBER 1, 1948 TO MARCH 31, 1961

| *Fiscal Year Ending March 31* | *Applications for Certification Granted* | *Applications for Certification Rejected* | *Applications for Certification Withdrawn* | *Applications for Certification Still Under Investigation at End of Year* |
|---|---|---|---|---|
| 1949 | 22 | 12 | 7 | 12 |
| 1950 | 47 | 18 | 12 | 14 |
| 1951 | 50 | 19 | 15 | 21 |
| 1952 | 54 | 32 | 15 | 16 |
| 1953 | 69 | 13 | 12 | 11 |
| 1954 | 41 | 11 | 8 | 12 |
| 1955 | 34 | 5 | 12 | 14 |
| 1956 | 75 | 14 | 13 | 15 |
| 1957 | 69 | 16 | 45 | 14 |
| 1958 | 80 | 18 | 21 | 7 |
| 1959 | 56 | 23 | 35 | 23 |
| 1960 | 65 | 45 | 29 | 16 |
| 1961 | 49 | 22 | 19 | 24 |
| **Totals** | 711 | 248 | 243 | |

SOURCE: Canada Department of Labour, Annual Reports.

# Appendix AC

SUMMARY OF CERTIFICATION ACTIVITIES OF ONTARIO LABOUR RELATIONS BOARD

| *Year Ending March 31* | *Certifications Granted* | *Certifications Dismissed* | *Certifications Withdrawn* |
|---|---|---|---|
| 1945 | 161 | 23 | 31 |
| 1946 | 255 | 64 | 49 |
| 1947 | 378 | 133 | 99 |
| 1948 | 387 | 127 | 117 |
| 1949 | 183 | 84 | 46 |
| 1950 | 315 | 116 | 29 |
| 1951 | 228 | 69 | 17 |
| 1952 | 458 | 168 | 61 |
| 1953 | 398 | 124 | 38 |
| 1954 | 371 | 134 | 23 |
| 1955 | 386 | 144 | 24 |
| 1956 | 631 | 178 | 46 |
| 1957 | 818 | 183 | 56 |
| 1958 | 706 | 190 | 56 |
| 1959 | 598 | 152 | 74 |
| 1960 | 496 | 169 | 73 |
| 1961 | 512 | 145 | 74 |
| **Totals** | 7,281 | 2,203 | 913 |

SOURCE: Ontario Department of Labour, Annual Reports.

# Appendix AD

SUMMARY OF CERTIFICATION ACTIVITIES OF QUEBEC LABOUR RELATIONS BOARD

| *Year Ending* | *Applications for Certification Granted* | *Applications for Certification Refused* | *Applications for Certification Withdrawn* | *Applications for Certification Pending* |
|---|---|---|---|---|
| 1944–45 | 923 | 188 | – | – |
| 1945–46 | 620 | 184 | – | 78 |
| 1946–47 | 852 | 96 | – | 68 |
| 1947–48 | 582 | 174 | 48 | 190 |
| 1948–49 | 480 | 186 | 92 | 31 |
| 1949–50 | 213 | 76 | 19 | 48 |
| 1950–51 | 343 | 87 | 39 | 136 |
| 1951–52 | 536 | 172 | 26 | 55 |
| 1952–53 | 384 | 159 | 27 | 52 |
| 1953–54 | 321 | 193 | 9 | 61 |
| 1954–55 | 322 | 120 | 26 | 72 |
| 1955–56 | 452 | 110 | 39 | 75 |
| 1956–57 | 596 | 148 | 20 | 102 |
| 1957–58 | 436 | 147 | 13 | 85 |
| 1958–59 | 325 | 102 | 16 | 61 |
| 1959–60 | 337 | 134 | 19 | 98 |
| 1960–61 | 670 | 154 | 34 | 269 |
| 1961–62 | 696 | 165 | 28 | 359 |
| **Totals** | 9,088 | 2,595 | 455 | |

SOURCE: General Reports of the Minister of Labour of the Province of Quebec.

# Appendix AE

APPLICATIONS FOR CERTIFICATION, NUMBER AND DISPOSITION, BRITISH COLUMBIA LABOUR RELATIONS BOARD, 1948 TO 1962

| *Year* | *Applications for Certification Granted* | *Applications for Certification Rejected* | *Applications for Certification Withdrawn* |
|---|---|---|---|
| 1948 | 670 | 126 | 68 |
| 1949 | 594 | 95 | 68 |
| 1950 | 540 | 117 | 108 |
| 1951 | 727 | 142 | 92 |
| 1952 | 640 | 93 | 83 |
| 1953 | 467 | 119 | 78 |
| 1954 | 467 | 133 | 47 |
| 1955 | 486 | 180 | 40 |
| 1956 | 493 | 119 | 51 |
| 1957 | 573 | 128 | 46 |
| 1958 | 522 | 180 | 33 |
| 1959 | 731 | 184 | 74 |
| 1960 | 458 | 109 | 82 |
| 1961 | 376 | 120 | 42 |
| 1962 | 494 | 150 | 87 |
| **Totals** | 8,238 | 1,995 | 999 |

SOURCE: British Columbia Department of Labour, Annual Reports.

# Appendix AF

SUMMARY OF CERTIFICATION ACTIVITIES OF MANITOBA LABOUR RELATIONS BOARD, MAY 16, 1947 TO DECEMBER 31, 1962

| *Year Ending March 31* | *Certifications Granted* | *Certifications Dismissed* | *Certifications Withdrawn* | *Applications Pending at the End of the Year* |
|---|---|---|---|---|
| 1948 | 44 | 15 | 11 | 1 |
| 1949 | 100 | 6 | 3 | 3 |
| 1950 | 50 | 7 | 2 | 3 |
| 1951 | 84 | 9 | 2 | 2 |
| 1952 | 100 | 50 | 6 | 10 |
| 1953 | 61 | 12 | 1 | 5 |
| 1954 | 65 | 14 | 1 | 7 |
| 1955 | 60 | 7 | 3 | 4 |
| 1956 | 43 | 11 | 1 | 1 |
| 1957 | 43 | 7 | 5 | 4 |
| 1957* Apr.–Dec. | 37 | 4 | – | 2 |
| 1958† | 42 | 9 | 1 | 7 |
| 1959 | 45 | 9 | 1 | 7 |
| 1960 | 37 | 16 | – | 4 |
| 1961 | 37 | 9 | 3 | 1 |
| 1962 | 29 | 5 | – | 2 |
| **Totals** | 877 | 190 | 40 | |

SOURCE: Manitoba Department of Labour, Annual Reports.

*9-month Period from April 1, 1957 to December 31, 1957.
†Figures for years 1958 to 1962 inclusive are provided on a calendar year basis; the figures for the previous years were from April 1 to March 31.

# Appendix AG

APPLICATIONS FOR CERTIFICATION, NUMBER AND DISPOSITION, ALBERTA LABOUR RELATIONS BOARD, 1953–1961

| *Year* | *Total* | *Granted* | *Refused* | *Withdrawn* | *Returned* | *Pending* |
|---|---|---|---|---|---|---|
| 1953 | 145 | 78 | 17 | 10 | 36 | 4 |
| 1954 | 162 | 114 | 11 | 1 | 28 | 8 |
| 1955 | 190 | 131 | 25 | 7 | 20 | 7 |
| 1956 | 205 | 141 | 22 | 10 | 18 | 14 |
| 1957 | 198 | 142 | 33 | 9 | 12 | 2 |
| 1958 | 180 | 108 | 43 | 12 | 8 | 9 |
| 1959 | 197 | 144 | 21 | 6 | 20 | 6 |
| 1960 | 259 | 161 | 31 | 14 | 4 | 49 |
| 1961 | 266 | 146 | 36 | 3 | 12 | 69 |
| **Totals** | 1,802 | 1,165 | 239 | 72 | 158 | |

SOURCE: Alberta Department of Labour, Board of Industrial Relations Bulletins.

# Appendix AH

## SUMMARY OF CERTIFICATION ACTIVITIES OF SASKATCHEWAN LABOUR RELATIONS BOARD

| *Year Ending March 31* | *Certifications Granted* | *Employees Affected by Certifications Granted* | *Certifications Dismissed* | *Certifications Withdrawn* |
|---|---|---|---|---|
| 1945 | 108 | 6,623 | 30 | 28 |
| 1946 | 150 | 3,557 | 13 | 24 |
| 1947 | 114 | 3,464 | 9 | 8 |
| 1948 | 76 | 2,189 | 10 | 18 |
| 1949 | 69 | 903 | 5 | 3 |
| 1950 | 43 | 863 | 5 | 10 |
| 1951 | 66 | 1,313 | 4 | 4 |
| 1952* | 14 | 320 | 3 | 1 |
| 1952–53† | 48 | 884 | 6 | 2 |
| 1953–54 | 61 | 1,254 | 10 | 2 |
| 1954–55 | 48 | 1,119 | 4 | 7 |
| 1955–56 | 57 | 851 | 6 | 5 |
| 1956–57 | 57 | 719 | 3 | 3 |
| 1957–58 | 54 | 823 | 7 | 10 |
| 1958–59 | 99 | 1,216 | 8 | 9 |
| 1959–60 | 132 | 1,724 | 7 | 12 |
| 1960–61 | 109 | 2,280 | 2 | 2 |
| 1961–62 | 70 | 810 | 7 | 5 |
| **Totals** | 1,375 | 30,912 | 139 | 153 |

SOURCE: Saskatchewan Department of Labour, Annual Reports.

*January 1 – March 31, 1952 (3-month period).
†Until January 1952 figures available on a calendar-year basis. After 1952 figures supplied on a fiscal-year basis (from April 1 to March 31).

# Appendix AI

SUMMARY OF CERTIFICATION ACTIVITIES OF NOVA SCOTIA LABOUR RELATIONS BOARD JULY 1, 1947 — MARCH 31, 1961

| *Year* | *Applications for Certifications Granted* | *Applications for Certifications Dismissed* | *Applications for Certifications Withdrawn* | *Applications for Revocation of Certifications* |
|---|---|---|---|---|
| 1947 | 2 | – | – | – |
| 1948 | 31 | 8 | – | 1 |
| 1949 | 23 | 3 | – | 1 |
| 1951* | 27 | 4 | – | 1 |
| 1952 | 45 | 14 | – | 10 |
| 1953 | 36 | 5 | – | 1 |
| 1954 | 43 | 14 | – | 4 |
| 1955 | 24 | 9 | – | 2 |
| 1956 | 51 | 17 | 1 | 3 |
| 1957 | 35 | 8 | – | – |
| 1958 | 32 | 8 | 2 | 4 |
| 1959 | 11 | 6 | 1 | – |
| 1960 | 45 | 8 | 1 | 1 |
| 1961 | 38 | 8 | 2 | 4 |
| **Totals** | 443 | 112 | 7 | 32 |

SOURCE: Report of Fact-Finding Body re Labour Legislation, Judge A. H. McKinnon, Antigonish, N.S., February 1, 1962.

*18-month period from December 1, 1949 to March 31, 1951.

# Appendix AJ

APPLICATIONS FOR CERTIFICATION, NUMBER AND DISPOSITION, NEW BRUNSWICK LABOUR RELATIONS BOARD, 1951/52 – 1960/61

| *Year* | *Total* | *Granted* | *Dismissed* | *Withdrawn* | *Pending at End of Year* |
|---|---|---|---|---|---|
| 1951–52 | 55 | 32 | 5 | 4 | 14 |
| 1952–53 | 44 | 32 | 5 | 6 | 1 |
| 1953–54 | 31 | 20 | 7 | 1 | 3 |
| 1954–55 | 57 | 46 | 10 | 1 | – |
| 1955–56 | 50 | 40 | 9 | – | 1 |
| 1956–57 | 57 | 48 | 6 | – | 3 |
| 1957–58 | 39 | 29 | 10 | – | – |
| 1958–59 | 35 | 23 | 5 | – | 7 |
| 1959–60 | 47 | 29 | 17 | – | 1 |
| 1960–61 | 23 | 16 | 5 | 1 | 1 |
| **Totals** | 438 | 315 | 79 | 13 | |

SOURCE: New Brunswick Department of Labour, Report for year ending March 31, 1961, p. 20.

# Appendix AK

## LETTER FROM THE REGISTRAR OF THE BRITISH COLUMBIA LABOUR RELATIONS BOARD TO UNIONS AND COMPANIES IN THE CONSTRUCTION INDUSTRY

Dear Sirs:

Re: *Bargaining Units within the Construction Industry*

The Labour Relations Board is concerned regarding the types of units with respect to which certain trade-unions in the construction industry are making applications for certification. Its concern has been motivated by representations from affected parties regarding a practice which appears to becoming prevalent, namely, enlarging units each time a new piece of equipment is added or a new method is introduced. Several categories now included in proposed descriptions of units are leading to inter-union jurisdictional differences. The matter may become further complicated because in order to protect their own interests unions may find it necessary to apply to be certified for units which set forth in detail all the types of work which they consider their members should be performing.

It is self-evident that in the matter of certifications simplicity, provided it may be employed without detracting from the essentials of the description of the unit, is highly desirable, as a simple description is easily and readily understood by all parties. It is also believed that such simplicity, perhaps through the establishment of more appropriate units, would facilitate the collective bargaining procedure.

There are of course many descriptions of units that appear already to be reduced to their simplest terms. Some such descriptions are: Carpenters and Joiners; Lathers; Cement Masons; Structural Iron Workers. On the other hand the terminology used in defining other units seems unnecessarily lengthy, and in spite of that, additions as indicated earlier are constantly being made.

The Board would appreciate receiving any written submission you may care to make with respect to the following units. It is understood that these units would be subject to such variations as may be necessary to meet special circumstances peculiar to a particular situation. You will note, too, that these units do not mention any geographic location as this factor will also be a variable depending upon circumstances. Your representations with respect to this matter will be considered by the Board provided they are received in this office not later than January 22nd, 1960.

Yours very truly,
D. W. COTON,
*Registrar.*

*The following list was enclosed with the letter:*

United Brotherhood of Carpenters and Joiners of America
(Construction Locals)
"CARPENTERS AND JOINERS"

United Brotherhood of Carpenters and Joiners of America
(Millwrights Local)
"MILLWRIGHTS"

United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada:
"PLUMBERS, STEAMFITTERS, PIPEFITTERS, PIPE WELDERS, SPACERS, CLAMP MEN AND STABBERS, SPRINKLER FITTERS, INSTRUMENT FITTERS, OIL BURNER MECHANICS, PIPEFITTER RIGGERS, GAS FITTERS AND ALL OF THEIR HELPERS"

Bricklayers' and Masons' Union
"BRICKLAYERS AND MASONS"

Brotherhood of Painters, Decorators and Paperhangers of America:
"PAINTERS, DECORATORS, PAPERHANGERS, BUILDING CLEANERS (STEAM OR OTHER PROCESS), SANDBLASTERERS"

Wood, Wire and Metal Lathers' International Union:
"LATHERS"

International Brotherhood of Electrical Workers:
"CONSTRUCTION WIREMEN AND HELPERS"

Operative Plasterers' and Cement Masons' International Association:
"CEMENT MASONS"

Operative Plasterers' and Cement Masons' International Association:
"PLASTERERS"

International Association of Bridge, Structural and Ornamental Iron Workers:
"STRUCTURAL IRON WORKERS"

Sheet Metal Workers' International Association:
"SHEET METAL WORKERS, IMPROVERS AND HELPERS"

Building Material, Construction and Fuel Truck Drivers' Union
"TRUCK DRIVERS AND WAREHOUSEMEN"

International Union of Operating Engineers:
"OPERATORS OF HEAVY CONSTRUCTION EQUIPMENT OTHER THAN TRUCKS; AND MECHANICS, OPERATING ENGINEERS; WELDERS, OILERS AND HELPERS"

Pile Drivers, Bridge, Dock and Wharf Builders:
"PILE DRIVERS, BRIDGE, WHARF AND DOCK BUILDERS, EXCEPT OPERATING ENGINEERS"

International Association of Machinists:
"MACHINISTS, FITTERS AND WELDERS AND HELPERS TO THE FOREGOING CLASSIFICATIONS"

International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers:
"BOILERMAKERS, BLACKSMITHS, SHIPPERS, CAULKERS, RIVETERS, BOILERMAKER WELDERS AND THEIR HELPERS"

International Association of Heat and Frost Insulators and Asbestos Workers Union:
"INSULATION MECHANICS, IMPROVERS AND THEIR HELPERS"

Tunnel and Rock Workers' Union

Construction and General Labourers' Union:

1. Unit with respect to any of the above locals covering heavy construction:
"DRILLERS, MINERS, TIMBERMEN, TRACKMEN, SKIPTENDERS, LABOURERS, CHUCKTENDERS, POWDERMEN, MOTERMEN, GUNITE NOZZLEMEN AND POTMEN, GROUTMEN, JACKHAMMERMEN, SCALERS, POWER BUGGY OPERATORS, TAMPERS, CHIPPERS, CEMENT PIPE LAYERS, DUMPMEN, VIBRATOR OPERATORS, BREAKERMEN, ROD MEN, FLAGMEN, WATCHMEN, MIXERMEN, AND FOREMEN TO EACH OF THE FOREGOING CLASSIFICATIONS EMPLOYED IN HEAVY CONSTRUCTION, WHICH INCLUDES THE CONSTRUCTION OF HIGHWAY, DAMS, AND TUNNELS"

2. Unit with respect to any of the above locals covering building construction:
"LABOURERS, TAMPERS, CHIPPERS, CEMENT PIPE LAYERS, DUMPMEN, VIBRATOR OPERATORS, JACKHAMMERMEN, BREAKERMEN, POWDERMEN, GAS BUGGY OPERATORS, ROD MEN, FLAGMEN, WATCHMEN, GUNITE NOZZLEMEN, AND MIXERMEN, AND FOREMEN TO THE FOREGOING CLASSIFICATIONS IN BUILDING CONSTRUCTION, WHICH INCLUDES THE CONSTRUCTION OF HOUSES AND OFFICE, FACTORY, APARTMENT AND SIMILAR BUILDINGS"

The above-mentioned list was slightly modified over the years and presently the list reads as follows:

Construction Craft Units with respect to the following Trade Unions considered appropriate for certification by the B.C. Labour Relations Board

United Brotherhood of Carpenters and Joiners of America
(Construction Locals)
"CARPENTERS AND JOINERS"

United Brotherhood of Carpenters and Joiners of America
(Millwrights Local)
"MILLWRIGHTS"

Bricklayers' and Masons' Union
"BRICKLAYERS, STONE MASONS, MARBLE MASONS, TERRAZZO WORKERS AND STONE CUTTERS"

United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada:
"plumbers, steamfitters, pipefitters, pipe welders, spacers, clamp men and stabbers, sprinkler fitters, instrument fitters, oil burner mechanics, pipefitter-riggers, gas fitters and all of their helpers"

Brotherhood of Painters, Decorators and Paperhangers of America:
"painters, decorators, paperhangers, building cleaners (steam or other process), sand-blasters"

Wood, Wire and Metal Lathers' International Union:
"lathers"

International Brotherhood of Electrical Workers:
"construction wiremen and their helpers"

Operative Plasterers' and Cement Masons' International Association:
"cement masons"

Operative Plasterers' and Cement Masons' International Association:
"plasterers"

International Association of Bridge, Structural and Ornamental Iron Workers:
"structural iron workers" or "reinforcing iron workers"

Sheet Metal Workers' International Association:
"sheet metal workers, improvers and helpers"

Building Material, Construction and Fuel Truck Drivers' Union:
"truck drivers and operators (other than operating engineers) of motor vehicles and motive equipment related to heavy construction, and warehousemen"

International Union of Operating Engineers:
"operators of heavy construction equipment other than trucks, and mechanics, welders (operating engineers), oilers and mechanics' helpers"

Pile Drivers, Bridge, Dock and Wharf Builders:
"pile drivers, bridge, dock and wharf builders, except operating engineers"

International Association of Machinists:
"machinists, fitters, and welders, and helpers to the foregoing classifications"

International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers:
"boilermakers, blacksmiths, chippers, caulkers, riveters, boilermaker welders and their helpers"

International Association of Heat and Frost Insulators and Asbestos Workers Union:
"insulation mechanics, improvers and their helpers"

Tunnel and Rock Workers and Construction and General Labourers Union:
"breakermen, bricklayers helpers, caulkingmen, cement pipelayers, chain saw operators, chippermen, chucktenders, drillers, dumpmen, groutmen, gunite nozzlemen, jackhammermen, labourers, miners, mixermen, motormen, potmen, powdermen, power buggy operators, pumptenders, rock scalers, skiptenders, tampermen, timbermen (underground) trackmen, vibrator operators, watchmen and foremen to each of the foregoing classifications"

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